

Senate Chamber, Atlanta, Georgia
Thursday, March 2, 2006
Twenty-sixth Legislative Day

The Senate met pursuant to adjournment at 9:00 a.m. today and was called to order by the President.

Senator Balfour of the 9th reported that the Journal of the previous legislative day had been read and found to be correct.

By unanimous consent, the reading of the Journal was dispensed with.

The Journal was confirmed.

The following message was received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has passed by the requisite constitutional majority the following Bills of the House:

HB 276. By Representatives Rice of the 51st, Dollar of the 45th, Powell of the 29th, Murphy of the 23rd and Parham of the 141st:

A BILL to be entitled an Act to amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to provide for licensing of ignition interlock device provider centers; to provide a short title; to provide for definitions; to provide for certain requirements for operators of provider centers; to provide for a misdemeanor offense; to provide for rules and standards to be set by the commissioner; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 920. By Representatives Smith of the 70th and Horne of the 71st:

A BILL to be entitled an Act to amend Article 3 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to local boards of education, and Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to the state employees' health insurance plan, so as to authorize local boards of education to provide health insurance benefits to members leaving office on or after a specified date if such members have served on the board for at least 12 years; to provide that such

former members shall pay the entire cost of the health insurance coverage; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

- HB 1031. By Representatives Dodson of the 75th, Willard of the 49th, Royal of the 171st, Barnes of the 78th, Jordan of the 77th and others:

A BILL to be entitled an Act to amend Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual offenses, so as to provide for gender neutrality with regard to the offense of incest; to change certain provisions relating to sodomy; to provide for related matters; to repeal conflicting laws; and for other purposes.

- HB 1112. By Representatives Smith of the 113th, Holt of the 112th, Butler of the 18th and Byrd of the 20th:

A BILL to be entitled an Act to amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to change certain provisions relating to licensing of speech-language pathologists and audiologists; to provide an effective date; to repeal conflicting laws; and for other purposes.

- HB 1141. By Representatives Heard of the 104th, Mills of the 25th and Parsons of the 42nd:

A BILL to be entitled an Act to amend Code Section 21-5-71 of the Official Code of Georgia Annotated, relating to registration of lobbyists, so as to provide for the payment of certain registration and other fees by persons who register as lobbyists; to provide for the establishment of such fees; to provide for related matters; to repeal conflicting laws; and for other purposes.

- HB 1209. By Representatives Chambers of the 81st, Wilkinson of the 52nd and Watson of the 91st:

A BILL to be entitled an Act to amend Code Section 15-21-2 of the Official Code of Georgia Annotated, relating to payment into county treasuries of fines and forfeitures, so as to provide for payment of certain moneys arising from traffic fines generated by motorcycle enforcement to the Department of Public Safety for the maintenance and enhancement of the motorcycle enforcement program; to amend Article 2 of Chapter 13 of Title 40 of the Official Code of Georgia Annotated, relating to arrests, trials, and appeals relative to prosecution of misdemeanor traffic offenses, so as to provide for

payment of certain moneys arising from traffic fines generated by motorcycle enforcement to the Department of Public Safety for the maintenance and enhancement of the motorcycle enforcement program; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

HB 1291. By Representatives Smith of the 131st, Rogers of the 26th, Meadows of the 5th and Murphy of the 120th:

A BILL to be entitled an Act to amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to regulate automobile clubs; to provide definitions; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 1293. By Representatives Royal of the 171st, Floyd of the 147th, Roberts of the 154th, Channell of the 116th and O'Neal of the 146th:

A BILL to be entitled an Act to amend Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide conservation use property, so as to provide for additional acts which constitute a breach of a conservation use covenant but incur a reduced penalty; to repeal conflicting laws; and for other purposes.

HB 1390. By Representative Ehrhart of the 36th:

A BILL to be entitled an Act to amend Chapter 30 of Title 43 of the Official Code of Georgia Annotated, relating to optometrists, so as to change certain provisions relating to creation of the State Board of Optometry, its composition, and qualifications of its members; to change certain provisions relating to the terms of office of board members; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 1414. By Representatives Holt of the 112th, Mumford of the 95th and Lunsford of the 110th:

A BILL to be entitled an Act to authorize Newton County to exercise all redevelopment and other powers except for condemnation and eminent domain under Article IX, Section II, Paragraph VII of the Constitution and Chapter 44 of Title 36 of the O.C.G.A., the "Redevelopment Powers Law," as amended; to provide for a referendum; to provide effective dates; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

HB 1415. By Representatives Holt of the 112th, Mumford of the 95th and Lunsford of the 110th:

A BILL to be entitled an Act to provide for the creation of one or more community improvement districts in Newton County; to provide for a short title; to provide for the purposes of said district or districts; to provide for definitions; to provide for a board to administer said district or districts; to provide for the appointment and election of members of said board or boards; to provide for taxes, fees, and assessments; to provide for establishment of the boundaries of said district or districts; to provide for a tax cap; to specify conditions whereby the continued existence of the district or districts or the continued existence of any one or more of the powers granted to the district or districts may be terminated; to provide that no notice, proceeding, publication, or referendum shall be required; to provide for dissolution; to provide the procedures connected with all of the foregoing; to repeal conflicting laws; and for other purposes.

HB 1428. By Representatives Meadows of the 5th and Graves of the 12th:

A BILL to be entitled an Act to provide for homestead exemptions from City of Calhoun independent school district ad valorem taxes for educational purposes in the amount of \$40,000.00 of the assessed value of the homestead for residents of that school district who are at least 65 but less than 70 years of age and in the amount of \$100,000.00 of the assessed value of the homestead for residents of that school district who are 70 years of age or over; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 1429. By Representatives Graves of the 12th and Meadows of the 5th:

A BILL to be entitled an Act to provide for homestead exemptions from Gordon County school district ad valorem taxes for educational purposes in the amount of \$40,000.00 of the assessed value of the homestead for residents of that school district who are at least 65 but less than 70 years of age and in the amount of \$100,000.00 of the assessed value of the homestead for residents of that school district who are 70 years of age or older; to provide for definitions; to specify the terms and conditions of the exemptions and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 1432. By Representatives Scheid of the 22nd, Hill of the 21st, Byrd of the 20th and Murphy of the 23rd:

A BILL to be entitled an Act to amend an Act to re-create and reincorporate the City of Woodstock, approved April 17, 1975 (Ga. L. 1975, p. 4160), as amended, so as to provide that it shall require the affirmative votes of five councilmembers to approve the exercise of the power of eminent domain in the city limits; to provide for a quorum; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 1434. By Representative Mills of the 25th:

A BILL to be entitled an Act to amend an Act providing a new charter for the City of Flowery Branch, approved April 11, 1979 (Ga. L. 1979, p. 3404), as amended, particularly by an ordinance filed with the Secretary of State on February 17, 2005 (Ga. L. 2005, p. 4274), so as to change the powers and duties of the mayor; to provide for a city manager; to provide for the appointment of a city clerk; to provide for the appointment of a city attorney; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House has adopted by the requisite constitutional majority the following Resolution of the Senate:

SR 1061. By Senators Williams of the 19th, Johnson of the 1st and Brown of the 26th:

A RESOLUTION relative to adjournment; and for other purposes.

The following communications were received by the Secretary:

Senator Eric Johnson
District 1
321 State Capitol
Atlanta, GA 30334

Committees:

Appropriations
Ethics
Finance
Natural Resources and the Environment
Regulated Industries and Utilities
Rules

The State Senate
Atlanta, Georgia 30334

MEMORANDUM

TO: Mr. Bob Ewing
Secretary of the Senate

FROM: Senate Committee on Assignments

Subject: Ex-Officio Member for the Senate Science and Technology Committee

The Committee on Assignments has appointed the following ex-officio member to the Senate Science and Technology Committee to serve March 2nd, 2006. The Senator appointed to serve as ex-officio member is:

Don Thomas of the 54th

The appointment is for this date only and this Senator should not be considered to be a member of the committee beyond this date.

Please contact us if you have further questions.

/s/ Eric Johnson

Senator Eric Johnson
District 1
321 State Capitol
Atlanta, GA 30334

Committees:

Appropriations
Ethics
Finance
Natural Resources and the Environment
Regulated Industries and Utilities
Rules

The State Senate
Atlanta, Georgia 30334

MEMORANDUM

TO: Mr. Bob Ewing
Secretary of the Senate

FROM: Senate Committee on Assignments

Subject: Ex-Officio Member for the Senate Health and Human Services Committee

The Committee on Assignments has appointed the following ex-officio member to the Senate Health and Human Services Committee to serve March 2nd, 2006. The Senator appointed to serve as ex-officio member is:

John Wiles of the 37th

The appointment is for this date only and this Senator should not be considered to be a member of the committee beyond this date.

Please contact us if you have further questions.

/s/ Eric Johnson

Senator Eric Johnson
District 1
321 State Capitol
Atlanta, GA 30334

Committees:

Appropriations
Ethics
Finance
Natural Resources and the Environment
Regulated Industries and Utilities
Rules

The State Senate
Atlanta, Georgia 30334

MEMORANDUM

TO: Mr. Bob Ewing
Secretary of the Senate

FROM: Senate Committee on Assignments

Subject: Ex-Officio Member for the Senate Higher Education Committee

The Committee on Assignments has appointed the following ex-officio member to the Senate Higher Education Committee to serve March 2nd, 2006. The Senator appointed to serve as ex-officio member is:

Don Balfour of the 9th

The appointment is for this date only and this Senator should not be considered to be a member of the committee beyond this date.

Please contact us if you have further questions.

/s/ Eric Johnson

Senator Eric Johnson
District 1
321 State Capitol
Atlanta, GA 30334

Committees:

Appropriations
Ethics
Finance
Natural Resources and the Environment
Regulated Industries and Utilities
Rules

The State Senate
Atlanta, Georgia 30334

MEMORANDUM

TO: Mr. Bob Ewing
Secretary of the Senate

FROM: Senate Committee on Assignments

Subject: Ex-Officio Member for the Senate Science and Technology Committee

The Committee on Assignments has appointed the following ex-officio member to the Senate Science and Technology Committee to serve March 2nd, 2006. The Senator appointed to serve as ex-officio member is:

Chip Rogers of the 21st

The appointment is for this date only and this Senator should not be considered to be a member of the committee beyond this date.

Please contact us if you have further questions.

/s/ Eric Johnson

Senator John Bulloch
District 11
110 State Capitol
Atlanta, GA 30334

Committees:

Agriculture and Consumer Affairs
Natural Resources and the Environment
Appropriations
Banking and Financial Institutions

The State Senate
Atlanta, Georgia 30334

The Honorable Bob Ewing
Secretary of the Senate
350 State Capitol
Atlanta, GA 30334

Dear Bob,

Please excuse me from the Senate on Thursday and Friday, March 2nd and 3rd 2006 as I will be away on family business. I have already discussed this with Senator Eric Johnson, President Pro Tempore so he is aware I will be absent.

Thank you for your assistance in this matter.

Sincerely,

/s/ John Bulloch

The following Senate legislation was introduced, read the first time and referred to committee:

SB 619. By Senators Tolleson of the 20th, Bulloch of the 11th, Harp of the 29th and Hudgens of the 47th:

A BILL to be entitled an Act to amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates and special plates for certain persons and vehicles, so as to provide for a special license plate supporting programs for persons with brain-related disorders and disabilities; to provide for a portion of the revenue to go to Pilot International; to provide for issuance, renewal, fees, licensing agreements, applications, and transfers relative to such special license plates; to provide for related matters; to provide a contingent effective date; to repeal conflicting laws; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

SB 620. By Senator Carter of the 13th:

A BILL to be entitled an Act to amend Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles, so as to provide for the imposition of fee by motor vehicle rental companies with respect to certain motor vehicle fees and taxes; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for applicability of sales and use taxation with respect to such fees; to provide

for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Finance Committee.

SB 621. By Senators Zamarripa of the 36th, Rogers of the 21st, Adelman of the 42nd, Staton of the 18th and Thomas of the 2nd:

A BILL to be entitled an Act to amend Title 30 of the Official Code of Georgia Annotated, relating to handicapped persons, so as to create the Commission for the Blind; to provide for a short title; to provide for legislative intent; to provide for the composition and appointment of commission members; to provide for an executive director; to provide for duties; to provide for an annual report; to provide for a complaint process; to specify the powers and duties of the commission, transferring functions otherwise assigned; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Insurance and Labor Committee.

SB 622. By Senators Tarver of the 22nd and Whitehead, Sr. of the 24th:

A BILL to be entitled an Act to amend Article 15 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to hospital acquisition, so as to change certain provisions relating to notice of acquisition to the Attorney General; to change certain provisions relating to content and form of notice to the Attorney General, fees, and retention of experts; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 623. By Senators Hill of the 32nd and Rogers of the 21st:

A BILL to be entitled an Act to amend Code Section 20-2-210 of the Official Code of Georgia Annotated, relating to annual performance evaluations, so as to require that the annual evaluation is signed by the evaluator and provided to the certificated person; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Education and Youth Committee.

SB 624. By Senators Seabaugh of the 28th, Chance of the 16th, Harp of the 29th, Staton of the 18th, Seay of the 34th and others:

A BILL to be entitled an Act to amend Code Section 15-6-2 of the O.C.G.A., relating to the number of judges of superior court, so as to provide for a sixth judge of the superior courts of the Coweta Judicial Circuit; to provide for the appointment of such additional judge by the Governor; to provide for the election of successors to the judge initially appointed; to prescribe the powers of such judge; to prescribe the compensation, salary, and expense allowance of such judge to be paid by the State of Georgia and the counties comprising said circuit; to authorize the judges of such circuit to divide and allocate the work and duties thereof; to provide for the manner of impaneling jurors; to declare inherent authority; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 625. By Senator Hudgens of the 47th:

A BILL to be entitled an Act to amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, and Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to change certain provisions regarding the Georgia housing tax credits with respect to certain insurance taxes and income taxes; to repeal conflicting laws; and for other purposes.

Referred to the Finance Committee.

SB 626. By Senator Schaefer of the 50th:

A BILL to be entitled an Act to amend an Act providing a homestead exemption from all Habersham County ad valorem taxes, including taxes for educational purposes, in the amount of \$10,000.00 of the assessed value of the homestead for residents of that county school district who are 65 years of age or over, which Act is the former local constitutional amendment, Resolution Act No. 162, House Resolution No. 662-1850 (Ga. L. 1978, p. 2444), which was continued in effect as statutory law pursuant to Article VII, Section II, Paragraph IV of the Constitution, so as to provide for a definition of the term "homestead" for purposes of the exemption; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

SB 627. By Senator Schaefer of the 50th:

A BILL to be entitled an Act to amend an Act creating the Habersham County Water and Sewerage Authority, approved April 6, 1981 (Ga. L. 1981, p. 3327), as amended, so as to continue in existence and reconstitute the authority; to provide for legislative findings; to provide for the termination of the terms of members of the authority appointed under previous law; to provide for the appointment of members and their qualifications, terms, chairperson, quorum, meetings, vacancies, and compensation; to provide for perpetual existence of the authority; to provide for ratification of outstanding revenue bond debt; to revise the powers of the authority; to provide that the authority shall exercise its powers with the consent of the Board of Commissioners of Habersham County; to expressly authorize lease of the assets of the authority, transfer of the authority's employees, and the provision of advice and recommendations to the Board of Commissioners of Habersham County; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

SB 628. By Senator Schaefer of the 50th:

A BILL to be entitled an Act to provide a homestead exemption from Habersham County school district ad valorem taxes for educational purposes for the full value of the homestead for residents of that school district who are disabled or are 65 years of age or over and whose income, excluding certain retirement income, does not exceed \$12,000.00; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

SB 629. By Senator Schaefer of the 50th:

A BILL to be entitled an Act to amend an Act providing for a homestead exemption from certain Habersham County ad valorem taxes for county purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead approved May 16, 2002 (Ga. L. 2002, p. 5864), so as to change the definition of homestead for purposes of such exemption; to provide for applicability; to

provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

SB 630. By Senator Pearson of the 51st:

A BILL to be entitled an Act to amend an Act providing a new charter for the Town of Talking Rock, approved April 21, 1997 (Ga. L. 1997, p. 4222), so as to change provisions relating to the time of municipal elections and the terms of the mayor and council; to exercise authority granted under general law so as to make the charter provisions on this subject consistent with general law; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

SB 631. By Senator Wiles of the 37th:

A BILL to be entitled an Act to amend Part 1 of Article 3 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to obscenity and related offenses, so as to repeal certain provisions regarding distributing obscene material, definition of obscene material, and penalty; to provide for the offense of distribution of obscene material; to provide for affirmative defenses; to provide for a criminal penalty; to provide for applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 632. By Senator Unterman of the 45th:

A BILL to be entitled an Act to amend Chapter 5 of Title 19 of the Official Code of Georgia Annotated, relating to divorce, so as to require the plaintiff to provide a copy of the final decree to the defendant if the defendant was not present when the final decree was entered; to provide that all documents that are to be exchanged between the parties pursuant to a divorce decree shall be sent by certified mail, return receipt requested; to provide for the filing of such receipts; to provide for related matters; to provide for an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 633. By Senator Schaefer of the 50th:

A BILL to be entitled an Act to amend an Act establishing a new charter for the Town of Tallulah Falls, approved February 6, 1984 (Ga. L. 1984, p. 3547), as amended, so as to change certain provisions relating to quorum, voting, and special meetings of the town council; to provide for related matters; to repeal conflicting laws; and for the other purposes.

Referred to the State and Local Governmental Operations Committee.

SB 634. By Senators Mullis of the 53rd, Bulloch of the 11th, Heath of the 31st, Goggans of the 7th and Rogers of the 21st:

A BILL to be entitled an Act to amend Part 3 of Article 4 of Chapter 11 of Title 16 of the O.C.G.A., relating to carrying and possession of firearms, so as to provide a short title; to provide for legislative intent; to provide a definition; to provide that it shall be lawful for any person who may lawfully possess firearms to park a motor vehicle on any property set aside for the parking of a motor vehicle when the person is lawfully transporting and storing a firearm or firearms in the motor vehicle and the firearm or firearms are locked in or locked to the motor vehicle; to provide for certain civil immunity for occurrences which result from, are connected with, or are incidental to the use of a firearm which is being lawfully transported and stored in a locked motor vehicle on any property set aside for the parking of motor vehicles; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

SB 635. By Senator Bulloch of the 11th:

A BILL to be entitled an Act to amend Article 2 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to dimensions and weights of vehicles and loads, so as to define certain terms; to provide certain record-keeping requirements for persons who weigh goods transported on vehicles that are subject to the limitations of said article; to provide that such records may be relevant evidence of violations of said article; to provide for exceptions; to provide for other evidence; to provide for issuance of citations; to provide penalties; to repeal conflicting laws; and for other purposes.

Referred to the Transportation Committee.

SB 636. By Senator Bulloch of the 11th:

A BILL to be entitled an Act to amend Code Section 1-3-3 of the Official Code of Georgia Annotated, relating to definitions of terms used in such code or other laws of the state, so as to define the term biodiesel fuel; to repeal conflicting laws; and for other purposes.

Referred to the Transportation Committee.

SB 637. By Senator Smith of the 52nd:

A BILL to be entitled an Act to amend Article 10 of Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to "Joshua's Law," so as to change the membership of the Georgia Driver's Education Commission; to repeal Section 1 of an Act approved May 10, 2005 (Ga. L. 2005, p. 1461), so as to repeal a priority concerning a certain distribution of fines and forfeitures; to provide for a definition; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

SR 1064. By Senator Goggans of the 7th:

A RESOLUTION commemorating the achievements and sacrifice made by Private James Boggan and renaming the Bear Creek Bridge on Highway 32 West in Ambrose, Georgia, the Private James Boggan Memorial Bridge; and for other purposes.

Referred to the Transportation Committee.

SR 1067. By Senator Schaefer of the 50th:

A RESOLUTION creating the Senate Study Committee on the Prevention of the Starvation and Dehydration of Persons with Disabilities; and for other purposes.

Referred to the Rules Committee.

The following House legislation was read the first time and referred to committee:

HB 276. By Representatives Rice of the 51st, Dollar of the 45th, Powell of the 29th, Murphy of the 23rd and Parham of the 141st:

A BILL to be entitled an Act to amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to provide for licensing of ignition interlock device provider centers; to provide a short title; to provide for definitions; to provide for certain requirements for operators of provider centers; to provide for a misdemeanor offense; to provide for rules and standards to be set by the commissioner; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

HB 920. By Representatives Smith of the 70th and Horne of the 71st:

A BILL to be entitled an Act to amend Article 3 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to local boards of education, and Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to the state employees' health insurance plan, so as to authorize local boards of education to provide health insurance benefits to members leaving office on or after a specified date if such members have served on the board for at least 12 years; to provide that such former members shall pay the entire cost of the health insurance coverage; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Insurance and Labor Committee.

HB 1031. By Representatives Dodson of the 75th, Willard of the 49th, Royal of the 171st, Barnes of the 78th, Jordan of the 77th and others:

A BILL to be entitled an Act to amend Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual offenses, so as to provide for gender neutrality with regard to the offense of incest; to change certain provisions relating to sodomy; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

HB 1112. By Representatives Smith of the 113th, Holt of the 112th, Butler of the 18th and Byrd of the 20th:

A BILL to be entitled an Act to amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to change certain

provisions relating to licensing of speech-language pathologists and audiologists; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Health and Human Services Committee.

HB 1141. By Representatives Heard of the 104th, Mills of the 25th and Parsons of the 42nd:

A BILL to be entitled an Act to amend Code Section 21-5-71 of the Official Code of Georgia Annotated, relating to registration of lobbyists, so as to provide for the payment of certain registration and other fees by persons who register as lobbyists; to provide for the establishment of such fees; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Ethics Committee.

HB 1209. By Representatives Chambers of the 81st, Wilkinson of the 52nd and Watson of the 91st:

A BILL to be entitled an Act to amend Code Section 15-21-2 of the Official Code of Georgia Annotated, relating to payment into county treasuries of fines and forfeitures, so as to provide for payment of certain moneys arising from traffic fines generated by motorcycle enforcement to the Department of Public Safety for the maintenance and enhancement of the motorcycle enforcement program; to amend Article 2 of Chapter 13 of Title 40 of the Official Code of Georgia Annotated, relating to arrests, trials, and appeals relative to prosecution of misdemeanor traffic offenses, so as to provide for payment of certain moneys arising from traffic fines generated by motorcycle enforcement to the Department of Public Safety for the maintenance and enhancement of the motorcycle enforcement program; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

HB 1291. By Representatives Smith of the 131st, Rogers of the 26th, Meadows of the 5th and Murphy of the 120th:

A BILL to be entitled an Act to amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to regulate automobile clubs; to provide

definitions; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Insurance and Labor Committee.

HB 1293. By Representatives Royal of the 171st, Floyd of the 147th, Roberts of the 154th, Channell of the 116th and O'Neal of the 146th:

A BILL to be entitled an Act to amend Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide conservation use property, so as to provide for additional acts which constitute a breach of a conservation use covenant but incur a reduced penalty; to repeal conflicting laws; and for other purposes.

Referred to the Finance Committee.

HB 1390. By Representative Ehrhart of the 36th:

A BILL to be entitled an Act to amend Chapter 30 of Title 43 of the Official Code of Georgia Annotated, relating to optometrists, so as to change certain provisions relating to creation of the State Board of Optometry, its composition, and qualifications of its members; to change certain provisions relating to the terms of office of board members; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Health and Human Services Committee.

HB 1414. By Representatives Holt of the 112th, Mumford of the 95th and Lunsford of the 110th:

A BILL to be entitled an Act to authorize Newton County to exercise all redevelopment and other powers except for condemnation and eminent domain under Article IX, Section II, Paragraph VII of the Constitution and Chapter 44 of Title 36 of the O.C.G.A., the "Redevelopment Powers Law," as amended; to provide for a referendum; to provide effective dates; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 1415. By Representatives Holt of the 112th, Mumford of the 95th and Lunsford of the 110th:

A BILL to be entitled an Act to provide for the creation of one or more community improvement districts in Newton County; to provide for a short title; to provide for the purposes of said district or districts; to provide for definitions; to provide for a board to administer said district or districts; to provide for the appointment and election of members of said board or boards; to provide for taxes, fees, and assessments; to provide for establishment of the boundaries of said district or districts; to provide for a tax cap; to specify conditions whereby the continued existence of the district or districts or the continued existence of any one or more of the powers granted to the district or districts may be terminated; to provide that no notice, proceeding, publication, or referendum shall be required; to provide for dissolution; to provide the procedures connected with all of the foregoing; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 1428. By Representatives Meadows of the 5th and Graves of the 12th:

A BILL to be entitled an Act to provide for homestead exemptions from City of Calhoun independent school district ad valorem taxes for educational purposes in the amount of \$40,000.00 of the assessed value of the homestead for residents of that school district who are at least 65 but less than 70 years of age and in the amount of \$100,000.00 of the assessed value of the homestead for residents of that school district who are 70 years of age or over; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 1429. By Representatives Graves of the 12th and Meadows of the 5th:

A BILL to be entitled an Act to provide for homestead exemptions from Gordon County school district ad valorem taxes for educational purposes in the amount of \$40,000.00 of the assessed value of the homestead for residents of that school district who are at least 65 but less than 70 years of age and in the amount of \$100,000.00 of the assessed value of the homestead for residents of that school district who are 70 years of age or older; to provide for definitions; to specify the terms and conditions of the exemptions and the procedures

relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 1432. By Representatives Scheid of the 22nd, Hill of the 21st, Byrd of the 20th and Murphy of the 23rd:

A BILL to be entitled an Act to amend an Act to re-create and reincorporate the City of Woodstock, approved April 17, 1975 (Ga. L. 1975, p. 4160), as amended, so as to provide that it shall require the affirmative votes of five councilmembers to approve the exercise of the power of eminent domain in the city limits; to provide for a quorum; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 1434. By Representative Mills of the 25th:

A BILL to be entitled an Act to amend an Act providing a new charter for the City of Flowery Branch, approved April 11, 1979 (Ga. L. 1979, p. 3404), as amended, particularly by an ordinance filed with the Secretary of State on February 17, 2005 (Ga. L. 2005, p. 4274), so as to change the powers and duties of the mayor; to provide for a city manager; to provide for the appointment of a city clerk; to provide for the appointment of a city attorney; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

The following committee reports were read by the Secretary:

Mr. President:

The Agriculture and Consumer Affairs Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

HB 1213 Do Pass
SB 380 Do Pass by substitute

Respectfully submitted,
Senator Bulloch of the 11th District, Chairman

Mr. President:

The Economic Development Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 414 Do Pass by substitute
SR 682 Do Pass by substitute

Respectfully submitted,
Senator Mullis of the 53rd District, Chairman

Mr. President:

The Judiciary Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 503 Do Pass by substitute SR 954 Do Pass
SR 793 Do Pass by substitute SR 955 Do Pass

Respectfully submitted,
Senator Smith of the 52nd District, Chairman

Mr. President:

The Higher Education Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 506 Do Pass
SR 769 Do Pass

Respectfully submitted,
Senator Harp of the 29th District, Chairman

Mr. President:

The Special Judiciary Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

HB 594 Do Pass
HB 912 Do Pass by substitute
SB 573 Do Pass

Respectfully submitted,
Senator Meyer von Bremen of the 12th District, Chairman

Mr. President:

The State Institutions and Property Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 592 Do Pass

Respectfully submitted,
Senator Grant of the 25th District, Chairman

Mr. President:

The State and Local Governmental Operations Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

HB 1142	Do Pass	HB 1321	Do Pass by substitute
HB 1251	Do Pass	HB 1343	Do Pass
HB 1269	Do Pass	HB 1351	Do Pass by substitute
HB 1312	Do Pass	SB 584	Do Pass

Respectfully submitted,
Senator Wiles of the 37th District, Chairman

The following legislation was read the second time:

HB 294	HB 1067	HB 1190	SB 524	SB 581	SR 848
HB 560	HB 1106	SB 349	SB 529	SR 433	SR 849
HB 954	HB 1157	SB 422	SB 562	SR 434	SR 1025
HB 984	HB 1182	SB 505	SB 563		

Senator Hooks of the 14th asked unanimous consent that Senator Starr of the 44th be excused. The consent was granted, and Senator Starr was excused.

Senator Kemp of the 46th asked unanimous consent that Senator Tolleson of the 20th be excused. The consent was granted, and Senator Tolleson was excused.

Senator Harbison of the 15th asked unanimous consent that Senator Thompson of the 5th be excused. The consent was granted, and Senator Thompson was excused.

Senator Reed of the 35th asked unanimous consent that Senator Thompson of the 33rd be excused. The consent was granted, and Senator Thompson was excused.

Senator Williams of the 19th asked unanimous consent that Senator Bulloch of the 11th be excused. The consent was granted, and Senator Bulloch was excused.

The roll was called and the following Senators answered to their names:

Adelman	Henson	Seabaugh
Balfour	Hill,Jack	Seay
Brown	Hill,Judson	Shafer,D
Butler	Hooks	Smith
Cagle	Hudgens	Staton
Carter	Johnson	Stephens
Chance	Jones	Stoner
Chapman	Kemp	Tarver
Douglas	Me V Bremen	Tate
Fort	Miles	Thomas,D
Goggans	Moody	Thomas,R
Golden	Mullis	Unterman
Grant	Pearson	Weber
Hamrick	Powell	Whitehead
Harbison	Reed	Wiles
Harp	Rogers	Williams
Heath	Schaefer	Zamarripa

Not answering were Senators:

Bulloch (Excused)	Starr (Excused)	Thompson, C (Excused)
Thompson, S (Excused)	Tolleson (Excused)	

The members pledged allegiance to the flag.

Senator Cagle of the 49th introduced the chaplain of the day, Reverend Jeff Crook of Flowery Branch, Georgia, who offered scripture reading and prayer.

Senator Hooks of the 14th introduced representatives of Peach County and the Peach County Trojan Class AAA High School Championship Football Team.

The following resolutions were read and adopted:

SR 1062. By Senators Cagle of the 49th, Kemp of the 46th, Stephens of the 27th and Thomas of the 54th:

A RESOLUTION commending the Leukemia & Lymphoma Society's Team In Training program; and for other purposes.

SR 1063. By Senators Staton of the 18th and Brown of the 26th:

A RESOLUTION recognizing the efforts of the Georgia Sports Hall of Fame; and for other purposes.

SR 1065. By Senator Whitehead, Sr. of the 24th:

A RESOLUTION commending and congratulating Mr. Oscar H. Jordan for his life achievement and on his outstanding career with the State of Georgia; and for other purposes.

SR 1066. By Senator Schaefer of the 50th:

A RESOLUTION celebrating Towns County's sesquicentennial anniversary; and for other purposes.

SR 1068. By Senator Golden of the 8th:

A RESOLUTION commending Mr. Buford W. McRae; and for other purposes.

SR 1069. By Senator Pearson of the 51st:

A RESOLUTION commending Matthew James Barker on becoming an Eagle Scout; and for other purposes.

SR 1070. By Senator Pearson of the 51st:

A RESOLUTION commending Albert McKinley Cornelison IV on becoming an Eagle Scout; and for other purposes.

SR 1071. By Senator Pearson of the 51st:

A RESOLUTION commending Cassady Reichert Baxter on becoming an Eagle Scout; and for other purposes.

SR 1072. By Senator Pearson of the 51st:

A RESOLUTION commending Wade Everett Holcombe on becoming an Eagle Scout; and for other purposes.

SR 1073. By Senator Pearson of the 51st:

A RESOLUTION commending Neil T. Bennett on becoming an Eagle Scout; and for other purposes.

SR 1074. By Senator Pearson of the 51st:

A RESOLUTION commending Joe Hibbitts on becoming an Eagle Scout; and for other purposes.

SR 1075. By Senator Jones of the 10th:

A RESOLUTION remembering and honoring the life of Warrant Officer Charles Gary Wells, Jr.; and for other purposes.

SR 1076. By Senators Seay of the 34th and Fort of the 39th:

A RESOLUTION proclaiming March 5, 2006, as the Chapel of Christian Love Baptist Church Day in the State of Georgia; and for other purposes.

The following local, uncontested legislation, favorably reported by the committee as listed on the Local Consent Calendar, was put upon its passage:

SENATE LOCAL CONSENT CALENDAR

Thursday, March 2, 2006
Twenty-sixth Legislative Day

(The names listed are the Senators whose districts are affected by the legislation.)

SB 584 Jones of the 10th
 Douglas of the 17th
 Starr of the 44th
 HENRY COUNTY

A BILL to be entitled an Act to amend an Act creating a State Court of Henry County, approved March 27, 1998 (Ga. L. 1998, p. 3954), as amended, particularly by an Act approved April 25, 2002 (Ga. L. 2002, p. 4662), so as to provide an additional judge for the State Court of Henry County; to provide for the appointment of the initial additional judge; to provide for the election of successors; to provide for terms of office of said additional judge and successors to such

judge; to provide for the compensation and expenses of said additional judge; to provide for related matters; to repeal conflicting laws; and for other purposes

HB 1142

Bulloch of the 11th
SEMINOLE COUNTY

A BILL to be entitled an Act to provide for the filling of vacancies in the office of sheriff of Seminole County; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 1251

Unterman of the 45th
Hudgens of the 47th
Cagle of the 49th
TOWN OF BRASELTON

A BILL to be entitled an Act to create the Braselton Visitors Bureau Authority as a public body corporate and politic, a political subdivision of the state, and a public corporation to have the responsibility and authority to promote tourism, conventions, and trade shows in the Town of Braselton, Georgia; to provide for the creation and organization of the authority; to provide for the appointment of the directors of the authority and their terms of office, compensation, and qualifications; to provide for meetings; to provide for legislative findings and declaration of purpose; to provide for general powers; to provide for regulations; to provide for other matters relative to the foregoing and relative to the general purposes of this Act; to repeal conflicting laws; and for other purposes.

HB 1269

Bulloch of the 11th
MILLER COUNTY

A BILL to be entitled an Act to amend an Act creating the Miller County Recreation Authority, approved March 25, 1997 (Ga. L. 1997, p. 3533), so as to provide for the composition, qualifications, terms, and quorums of the authority; to repeal conflicting laws; and for other purposes.

HB 1312 Bulloch of the 11th
 Meyer von Bremen of the 12th
 MITCHELL COUNTY

A BILL to be entitled an Act to abolish the office of elected county surveyor of Mitchell County pursuant to Code Section 36-7-2.1 of the O.C.G.A.; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 1321 Hill of the 32nd
 Reed of the 35th
 Zamarripa of the 36th
 Tate of the 38th
 Fort of the 39th
 Shafer of the 48th
 Moody of the 56th
 CITY OF JOHNS CREEK/FULTON COUNTY

A BILL to be entitled an Act to incorporate the City of Johns Creek in Fulton County, Georgia; to provide a charter for the City of Johns Creek; to provide for incorporation, boundaries, and powers of the city; to provide for a governing authority of such city and the powers, duties, authority, election, terms, method of filling vacancies, compensation, qualifications, prohibitions, and removal from office relative to members of such governing authority; to provide for inquiries and investigations; to provide for organization and procedures; to provide for ordinances and codes; to provide for the offices of mayor and city manager and certain duties and powers relative to those offices; to provide for administrative responsibilities; to repeal conflicting laws; and for other purposes.
(SUBSTITUTE)

HB 1343 Rogers of the 21st
 Stephens of the 27th
 CHEROKEE COUNTY

A BILL to be entitled an Act to authorize Cherokee County to exercise all redevelopment and other powers under Article IX, Section II, Paragraph VII of the Constitution and Chapter 44 of Title 36 of the O.C.G.A., the "Redevelopment Powers Law," as amended; to provide for a referendum; to provide effective dates; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

Pursuant to Article VII, Section II, Paragraph IV of the Constitution, the following local bill relating to homestead exemptions requires a two-thirds roll-call vote for passage:

HB 1351

Thomas of the 54th
MURRAY COUNTY

A BILL to be entitled an Act to provide a homestead exemption from Murray County school district ad valorem taxes for educational purposes in the amount of \$80,000.00 of the assessed value of the homestead for residents of that school district who are at least 70 years of age; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

(SUBSTITUTE)

The substitutes to the following bills were put upon its adoption:

*HB 1321:

The Senate State and Local Governmental Operations Committee offered the following substitute to HB 1321:

**A BILL TO BE ENTITLED
AN ACT**

To incorporate the City of Johns Creek in Fulton County, Georgia; to provide a charter for the City of Johns Creek; to provide for incorporation, boundaries, and powers of the city; to provide for a governing authority of such city and the powers, duties, authority, election, terms, method of filling vacancies, compensation, qualifications, prohibitions, and removal from office relative to members of such governing authority; to provide for inquiries and investigations; to provide for organization and procedures; to provide for ordinances and codes; to provide for the offices of mayor and city manager and certain duties and powers relative to those offices; to provide for administrative responsibilities; to provide for boards, commissions, and authorities; to provide for a city attorney, a city clerk, a city tax collector, a city accountant, and other personnel; to provide for rules and regulations; to provide for a municipal court and the judge or judges thereof; to provide for practices and procedures; to provide for taxation and fees; to provide for franchises, service charges, and assessments; to provide for bonded and other indebtedness; to provide for accounting and budgeting; to provide for purchases; to provide for the sale of property; to provide for bonds for officials; to provide for eminent domain; to provide for

penalties; to provide for definitions and construction; to provide for other matters relative to the foregoing; to provide for a referendum; to provide effective dates; to provide for transition of powers and duties; to provide for directory nature of dates; to provide for a charter commission; to provide for severability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I
INCORPORATION AND POWERS

SECTION 1.10.

Incorporation.

The City of Johns Creek in Fulton County is incorporated by the enactment of this charter and is constituted and declared a body politic and corporate under the name of the "City of Johns Creek." References in this charter to "the city" or "this city" refer to the City of Johns Creek. The city shall have perpetual existence.

SECTION 1.11.

Corporate boundaries.

(a) The incorporated area of this city shall include all of that portion of Fulton County as set forth and described in Appendix A of this charter, which appendix is incorporated herein by reference, subject to ratification by the voters at a referendum as provided in Section 7.14 of this Act.

(b) The incorporated area of this city may also include all of that portion of Fulton County as set forth and described in Appendix B of this charter, which appendix is incorporated herein by reference, subject to ratification by the voters at a referendum as provided in Section 7.14 of this Act.

(c) After the original incorporation of this city, the boundaries of this city shall be subject to such alterations as may be made thereafter from time to time by local law or in the manner provided by general state law. As used in this charter, the term "territory" means the area of the city as described in this section. The boundaries of this city at all times shall be shown on a map, a written description, or any combination thereof, to be retained permanently in the office of the city clerk of the city and to be designated, as the case may be: "Official Map or Description of the Corporate Limits of the City of Johns Creek, Georgia." Photographic, typed, or other copies of such map or description certified by the mayor shall be admitted as evidence in all courts and shall have the same force and effect as the original map or description.

SECTION 1.12.

Municipal powers.

(a) This city shall have all powers possible for a city to have under the present or future Constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter. This city shall have all the powers of self-government not otherwise prohibited by this charter or by general law.

(b) The powers of this city shall be construed liberally in favor of the city. The specific mention or failure to mention particular powers shall not be construed as limiting in any way the powers of this city. Said powers shall include, but are not limited to, the following:

(1) Air and water pollution. To regulate the emission of smoke or other exhaust which pollutes the air and to prevent the pollution of natural streams which flow within the corporate limits of the city;

(2) Animal regulations. To regulate and license or to prohibit the keeping or running at large of animals and fowl and to provide for the impoundment of same if in violation of any ordinance or lawful order; to provide for the disposition by sale, gift, or humane destruction of animals and fowl when not redeemed as provided by ordinance; and to provide punishment for violation of ordinances enacted under this paragraph;

(3) Appropriations and expenditures. To make appropriations for the support of the government of the city; to authorize the expenditure of money for any purposes authorized by this charter and for any purpose for which a municipality is authorized by the laws of the State of Georgia; and to provide for the payment of expenses of this city;

(4) Building regulations. To regulate and to license the erection and construction of buildings and all other structures not inconsistent with general law; to adopt building, housing, plumbing, electrical, gas, and heating and air-conditioning codes; and to regulate all housing and building trades except as otherwise prohibited by general law;

(5) Business regulation and taxation. To levy and to provide for the collection of license fees and taxes on privileges, occupations, trades, and professions; to license and regulate the same; to provide for the manner and method of payment of such licenses and taxes; and to revoke such licenses after due process for the failure to pay any city taxes or fees;

(6) Condemnation. To condemn property, inside or outside the corporate limits of the city, for present or future use and for any corporate purpose deemed necessary by the governing authority, utilizing procedures enumerated in Title 22 of the O.C.G.A. or such other laws as are or may hereafter be enacted;

(7) Contracts. To enter into contracts and agreements with other governments and entities and with private persons, firms, and corporations;

(8) Emergencies. To establish procedures for determining and proclaiming that an emergency situation exists inside or outside the city and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health, or well-being of the citizens of the city;

(9) Environmental protection. To protect and preserve the natural resources,

environment, and vital areas of the city, the region, and the state through the preservation and improvement of air quality, the restoration and maintenance of water resources, the control of erosion and sedimentation, the management of storm water and establishment of a storm-water utility, the management of solid and hazardous waste, and other necessary actions for the protection of the environment;

(10) Ethics. To adopt ethics ordinances and regulations governing the conduct of municipal elected officials, appointed officials, and employees, establishing procedures for handling ethics complaints, and setting forth penalties for violations of such rules and procedures;

(11) Fire regulations. To fix and establish fire limits and from time to time extend, enlarge, or restrict the same; to prescribe fire safety regulations, not inconsistent with general law relating to both fire prevention and detection and to fire fighting; and to prescribe penalties and punishment for violations thereof;

(12) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection and disposal and other sanitary service charge, tax, or fee for such services as may be necessary in the operation of the city from all individuals, firms, and corporations residing in or doing business within the city and benefiting from such services; to enforce the payment of such charges, taxes, or fees; and to provide for the manner and method of collecting such service charges;

(13) General health, safety, and welfare. To define, regulate, and prohibit any act, practice, conduct, or use of property which is detrimental to the health, sanitation, cleanliness, welfare, and safety of the inhabitants of the city and to provide for the enforcement of such standards;

(14) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for any purpose related to the powers and duties of the city and the general welfare of its citizens on such terms and conditions as the donor or grantor may impose;

(15) Health and sanitation. To prescribe standards of health and sanitation within the city and to provide for the enforcement of such standards;

(16) Homestead exemption. To establish and maintain procedures for offering homestead exemptions to residents of the city as authorized by Act of the General Assembly;

(17) Jail sentences. To provide that persons given jail sentences in the municipal court may work out such sentences in any public works or on the streets, roads, drains, and squares in the city; to provide for the commitment of such persons to any jail; or to provide for the commitment of such persons to any county work camp or county jail by agreement with the appropriate county officials;

(18) Motor vehicles. To regulate the operation of motor vehicles and exercise control over all traffic, including parking, upon or across the streets, roads, alleys, and walkways of the city;

(19) Municipal agencies and delegation of power. To create, alter, or abolish departments, boards, offices, commissions, and agencies of the city and to confer upon such agencies the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same;

(20) Municipal debts. To appropriate and borrow money for the payment of debts of the city and to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized by this charter or the laws of the State of Georgia;

(21) Municipal property ownership. To acquire, dispose of, and hold in trust or otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or outside the property limits of the city;

(22) Municipal property protection. To provide for the preservation and protection of property and equipment of the city and the administration and use of same by the public; and to prescribe penalties and punishment for violations thereof;

(23) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose of public utilities, including, but not limited to, a system of waterworks, sewers, and drains, sewage disposal, gas works, electric plants, transportation facilities, public airports, and any other public utility; and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties therefor; and to provide for the withdrawal of service for refusal or failure to pay the same; and to authorize the extension of water, sewerage, and electrical distribution systems, and all necessary appurtenances by which said utilities are distributed, inside and outside the corporate limits of the city; and to provide utility services to persons, firms, and corporations inside and outside the corporate limits of the city as provided by ordinance;

(24) Nuisances. To define a nuisance and provide for its abatement whether on public or private property;

(25) Penalties. To provide penalties for violation of any ordinances adopted pursuant to the authority of this charter and the laws of the State of Georgia;

(26) Planning and zoning. To provide comprehensive city planning for development by zoning and to provide subdivision regulation and the like as the city council deems necessary and reasonable to ensure a safe, healthy, and esthetically pleasing community;

(27) Police and fire protection. To exercise the power of arrest through duly appointed police officers and to establish, operate, or contract for a police and a fire-fighting agency;

(28) Public hazards; removal. To provide for the destruction and removal of any building or other structure which is or may become dangerous or detrimental to the public;

(29) Public improvements. To provide for the acquisition, construction, building, operation, and maintenance of public ways, parks, playgrounds, recreational facilities, cemeteries, markets and market houses, public buildings, libraries, public housing, airports, hospitals, terminals, docks, parking facilities, or charitable, cultural, educational, recreational, conservation, sport, curative, corrective, detentional, penal, and medical institutions, agencies, and facilities; to provide any other public improvements inside or outside the corporate limits of the city; to regulate the use of public improvements; and, for such purposes, property may be acquired by condemnation under Title 22 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted;

- (30) Public peace. To provide for the prevention and punishment of drunkenness, riots, and public disturbances;
- (31) Public transportation. To organize and operate or contract for such public transportation systems as are deemed beneficial;
- (32) Public utilities and services. To grant franchises or make contracts for public utilities and public services and to prescribe the rates, fares, regulations, and the standards and conditions of service applicable to the service to be provided by the franchise grantee or contractor, insofar as not in conflict with valid regulations of the Public Service Commission;
- (33) Regulation of roadside areas. To prohibit or regulate and control the erection, removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any and all other structures or obstructions upon or adjacent to the rights of way of streets and roads or within view thereof, inside or abutting the corporate limits of the city and to prescribe penalties and punishment for violation of such ordinances;
- (34) Retirement. To provide and maintain a retirement plan for officers and employees of the city;
- (35) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and walkways within the corporate limits of the city; and to negotiate and execute leases over, through, under, or across any city property or the right of way of any street, road, alley, and walkway or portion thereof within the corporate limits of the city for bridges, passageways, or any other purpose or use between buildings on opposite sides of the street and for other bridges, overpasses, and underpasses for private use at such location and to charge a rental therefor in such manner as may be provided by ordinance; and to authorize and control the construction of bridges, overpasses, and underpasses within the corporate limits of the city; and to grant franchises and rights of way throughout the streets and roads and over the bridges and viaducts for the use of public utilities and for private use;
- (36) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish, and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper, and other recyclable materials and provide for the sale of such items;
- (37) Special areas of public regulation. To regulate or prohibit junk dealers, pawn shops, the manufacture, sale, or transportation of intoxicating liquors, and the use of firearms; to regulate the transportation, storage, and use of combustible, explosive, and inflammable materials, the use of lighting and heating equipment, and any other business or situation which may be dangerous to persons or property; to regulate and control the conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows of any kind, by taxing or otherwise; and to license, tax, regulate, or prohibit professional fortunetelling, palmistry, adult bookstores, adult entertainment, and massage parlors;

(38) Special assessments. To levy and provide for the collection of special assessments to cover the costs of any public improvement;

(39) Taxes (ad valorem). To levy and provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation; provided, however, that:

(A) For all years, the millage rate imposed for ad valorem taxes on real property shall not exceed 4.731 unless a higher limit is recommended by resolution of the city council and approved by a majority of the qualified voters of the city; provided, however, that for the purposes of compliance with Code Section 48-8-91 of the O.C.G.A., the millage rate may be adjusted upward for the sole purpose of complying with the millage rate rollback provisions set forth therein;

(B) For all years, the fair market value of all property subject to taxation shall be determined according to the tax digest of Fulton County, as provided in Code Section 48-5-352 of the O.C.G.A.; and

(C) For all years, the billing date or dates and due date or dates for municipal ad valorem taxes shall be the same as for Fulton County ad valorem taxes;

(40) Taxes (other). To levy and collect such other taxes as may be allowed now or in the future by law;

(41) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the number of such vehicles; to require the operators thereof to be licensed; to require public liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to regulate the parking of such vehicles;

(42) Urban redevelopment. To organize and operate an urban redevelopment program; and

(43) Other powers. To exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the city and its inhabitants; to exercise all implied powers necessary to carry into execution all powers granted in this charter as fully and completely as if such powers were fully stated in this charter; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia; and no listing of particular powers in this charter shall be held to be exclusive of others, nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

SECTION 1.13.

Exercise of powers.

All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or employees shall be carried into execution as provided by this charter. If this charter makes no provision, such shall be carried into execution as provided by ordinance or as provided by pertinent laws of the State of Georgia.

ARTICLE II
GOVERNMENT STRUCTURE, ELECTIONS, AND REMOVAL
SECTION 2.10.

City council creation; composition; number; election.

(a) The legislative authority of the government of this city, except as otherwise specifically provided in this charter, shall be vested in a city council to be composed of a mayor and six councilmembers who shall be elected to Posts 1 through 6. Each person desiring to offer as a candidate for councilmember shall designate the council post for which he or she is offering.

(b) The mayor and councilmembers shall serve for terms of four years and until their respective successors are elected and qualified, except as otherwise provided in subsection (d) of Section 2.11 of this charter. No person shall be eligible to serve as mayor or councilmember unless that person is at least 21 years of age and shall have been a resident of the territory for 12 months immediately preceding his or her election; and each such person shall continue to reside within the city during said period of service and shall be registered and qualified to vote in municipal elections of this city. No person's name shall be listed as a candidate on the ballot for election for either mayor or councilmember unless such person shall file a written notice with the clerk of said city that such person desires his or her name to be placed on said ballot as a candidate either for mayor or councilmember and in the case of a candidate for councilmember designates the post for which he or she is a candidate. No person shall be eligible for the office of mayor or councilmember unless such person shall file said notice within the time provided for in Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

SECTION 2.11.
Elections.

(a) At any election, all persons who are qualified under the Constitution and laws of Georgia to vote for members of the General Assembly of Georgia and who are bona fide residents of the territory or of said city shall be eligible to qualify as voters in the election.

(b) All primaries and elections, including without limitation the special election of 2006 to elect the first mayor and council, shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code." Except as otherwise provided by this charter, the city council shall, by ordinance, prescribe such rules and regulations it deems appropriate to fulfill any options and duties under the "Georgia Election Code."

(c) All elections for the mayor and all councilmembers shall be at-large by the voters of the entire city.

(d) The first election for mayor and councilmembers shall be a special election held in 2006 on the date specified in subsection (e) of this section. At said election, the mayor and councilmembers elected to Council Posts 1, 3, and 5 shall be elected for initial terms

of office beginning immediately after their election and expiring on December 31, 2009. The councilmembers elected to Council Posts 2, 4, and 6 shall be elected for initial terms of office beginning immediately after their election and expiring on December 31, 2007. Thereafter, at the elections provided for by subsection (e) of this section, their successors shall be elected for terms of four years. All members shall serve until their successors are elected and qualified.

(e) A special election shall be held on the Tuesday after the first Monday in November, 2006, to elect the first mayor and council as provided in subsection (d) of this section. At such election, the first mayor and council shall be elected to serve for the initial terms of office specified in said subsection (d) of this section. Thereafter, the time for holding regular municipal elections shall be on the Tuesday next following the first Monday in November of each odd-numbered year beginning in 2007. The successors to the first mayor and councilmembers and future successors shall be elected at the municipal election immediately preceding the expiration of the respective terms of office and shall take office on the first day of January immediately following their election for terms of four years and until their successors are elected and qualified.

(f) All municipal elections shall be nonpartisan and without primaries.

SECTION 2.12.

Vacancies in office.

(a)(1) The office of mayor or councilmember shall become vacant upon the incumbent's death, resignation, forfeiture of office, or removal from office in any manner authorized by this charter or the general laws of the State of Georgia.

(2) Upon the suspension from office of mayor or councilmember in any manner authorized by the general laws of the State of Georgia, the city council or those remaining shall appoint a successor for the duration of the suspension. If the suspension becomes permanent, then the office shall become vacant and shall be filled as provided in subsection (b) of this section.

(b) In the event that the office of mayor or councilmember shall become vacant, the city council or those remaining shall order a special election to fill the balance of the unexpired term of such official; provided, however, if such vacancy occurs within six months of the expiration of the term of that office, the city council or those members remaining shall appoint a successor for the remainder of the term. In all other respects, the special election shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

SECTION 2.13.

Election by majority vote.

The candidate receiving a majority of the votes cast for any city office shall be elected.

SECTION 2.14.

Compensation and expenses.

The annual salary of the mayor shall be \$25,000.00 and the annual salary for each councilmember shall be \$15,000.00. Such salary shall be paid from municipal funds in monthly installments. The city council may provide by ordinance for the provision of insurance, retirement, workers' compensation, and other employee benefits to the mayor and members of the city council and may provide by ordinance for the reimbursement of expenses actually and necessarily incurred by the mayor and members of the city council in carrying out their official duties.

SECTION 2.15.

Prohibitions.

(a) No elected official, appointed officer, or employee of the city or any agency or political entity to which this charter applies shall knowingly:

(1) Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties or which would tend to impair the independence of his or her judgment or action in the performance of official duties;

(2) Engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of official duties or would tend to impair the independence of his or her judgment or action in the performance of official duties;

(3) Disclose confidential information concerning the property, government, or affairs of the governmental body by which engaged without proper legal authorization or use such information to advance the financial or other private interest of himself or herself or others;

(4) Accept any valuable gift, whether in the form of service, loan, object, or promise, from any person, firm, or corporation which to his or her knowledge is interested, directly or indirectly, in any manner whatsoever in business dealings with the governmental body by which he or she is engaged; provided, however, that an elected official who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;

(5) Represent other private interests in any action or proceeding against this city or any portion of its government; or

(6) Vote or otherwise participate in the negotiation or in the making of any contract with any business or entity in which he or she has a financial interest.

(b) Any elected official, appointed officer, or employee who has any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city shall disclose such private interest to the city council. The mayor or any councilmember who has a private interest in any matter pending before the city council shall disclose such private interest and such disclosure shall be entered on the

records of the city council, and he or she shall disqualify himself or herself from participating in any decision or vote relating thereto. Any elected official, appointed officer, or employee of any agency or political entity to which this charter applies who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within such entity shall disclose such private interest to the governing body of such agency or entity.

(c) No elected official, appointed officer, or employee of the city or any agency or entity to which this charter applies shall use property owned by such governmental entity for personal benefit, convenience, or profit, except in accordance with policies promulgated by the city council or the governing body of such agency or entity.

(d) Any violation of this section which occurs with the knowledge, express or implied, of a party to a contract or sale shall render said contract or sale voidable at the option of the city council.

(e) Except as authorized by law, no member of the council shall hold any other elective city office or other city employment during the term for which elected. The provisions of this subsection shall not apply to any person holding employment on the effective date of this Act.

SECTION 2.16.

Removal of officers.

(a) The mayor, a councilmember, or other appointed officers provided for in this charter shall be removed from office for any one or more of the following causes:

- (1) Incompetence, misfeasance, or malfeasance in office;
- (2) Conviction of a crime involving moral turpitude;
- (3) Failure at any time to possess any qualifications of office as provided by this charter or by law;
- (4) Knowingly violating Section 2.15 or any other express prohibition of this charter;
- (5) Abandonment of office or neglect to perform the duties thereof; or
- (6) Failure for any other cause to perform the duties of office as required by this charter or by state law.

(b) Removal of any officer pursuant to subsection (a) of this section shall be accomplished by one of the following methods:

- (1) By the vote of five councilmembers after an investigative hearing. In the event an elected officer is sought to be removed by the action of the city council, such officer shall be entitled to a written notice specifying the ground or grounds for removal and to a public hearing which shall be held not less than ten days after the service of such written notice. Any elected officer sought to be removed from office as provided in this section shall have the right of appeal from the decision of the city council to the Superior Court of Fulton County. Such appeal shall be governed by the same rules as govern appeals to the superior court from the probate court; or
- (2) By an order of the Superior Court of Fulton County following a hearing on a complaint seeking such removal brought by any resident of the City of Johns Creek.

ARTICLE III
ORGANIZATION OF GOVERNMENT, GENERAL
AUTHORITY, AND ORDINANCES

SECTION 3.10.

General power and authority.

Except as otherwise provided by this charter, the city council shall be vested with all the powers of government of this city as provided by Article I of this charter.

SECTION 3.11.

Organization.

(a) The city council shall hold an organizational meeting at the first regular meeting in January following an election. The meeting shall be called to order by the city clerk or the mayor-elect if the office of clerk is vacant. The city clerk or any judge shall administer the oaths required by Chapter 3 of Title 45 of the O.C.G.A. and the following oath:

"I do solemnly (swear) (affirm) that I will faithfully perform the duties of (mayor) (councilmember) of this city and that I will support and defend the charter thereof as well as the Constitution and laws of the State of Georgia and of the United States of America."

(b) By a majority vote, the city council shall elect a councilmember to serve as mayor pro tempore. The mayor pro tempore shall assume the duties and powers of the mayor during any disability or absence of the mayor. Any such disability or absence shall be declared by a majority vote of the city council.

SECTION 3.12.

Inquiries and investigations.

The city council may make inquiries and investigations into the affairs of the city and the conduct of any department, office, or agency thereof and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the council shall be punished as provided by ordinance.

SECTION 3.13.

Meetings.

(a) The city council shall hold regular meetings at such times and places as prescribed by ordinance and shall hold at least one regular meeting each month.

(b) Special meetings of the city council may be held on call of the mayor or four members of the city council. Notice of such special meeting shall be served on all other members personally, or by telephone personally, at least 48 hours in advance of the

meeting. Such notice to councilmembers shall not be required if the mayor and all councilmembers are present when the special meeting is called. Such notice of any special meeting may be waived by a councilmember in writing before or after such a meeting and attendance at the meeting shall also constitute a waiver of notice on any business transacted in such councilmember's presence. Only the business stated in the call may be transacted at the special meeting.

(c) All meetings of the city council shall be public to the extent required by law and notice to the public of special meetings shall be given as required by law.

SECTION 3.14.

Procedures.

(a) The city council shall adopt its rules of procedure and order of business consistent with the provisions of this charter and shall provide for keeping a journal of its proceedings which shall be a public record.

(b) All committees and committee chairpersons and officers of the city council shall be appointed by the mayor.

SECTION 3.15.

Voting.

(a) Except as otherwise provided in subsection (c) of this section, four councilmembers shall constitute a quorum and shall be authorized to transact the business of the city council. For voting and quorum purposes, the mayor shall be counted as one of the councilmembers. Voting on the adoption of ordinances shall be by voice vote and the vote shall be recorded in the journal, but any member of the city council shall have the right to request a roll-call vote and such vote shall be recorded in the journal. No councilmember shall abstain from voting except in the case of a conflict of interest or if absent when a motion being voted upon was made. The councilmember shall provide a specific explanation of the conflict, and the explanation shall be recorded in the journal.

(b) Except as otherwise provided in this charter, the affirmative vote of a majority of the councilmembers present shall be required for the adoption of any ordinance, resolution, or motion.

(c) In the event vacancies in office result in less than a quorum of councilmembers holding office, then the remaining councilmembers in office shall constitute a quorum and shall be authorized to transact business of the city council. A vote of a majority of the remaining councilmembers shall be required for the adoption of any ordinance, resolution, or motion.

SECTION 3.16.

Ordinances.

(a) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain a subject which is not expressed in its title.

The enacting clause shall be "The Council of the City of Johns Creek hereby ordains..." and every ordinance shall so begin.

(b) An ordinance may be introduced by the mayor or any councilmember and be read at a regular or special meeting of the city council. Ordinances shall be considered and adopted or rejected by the city council in accordance with the rules which it shall establish; provided, however, an ordinance shall not be adopted the same day it is introduced, except for emergency ordinances provided for in Section 3.18 of this charter. Upon introduction of any ordinance, the clerk shall, as soon as possible, distribute a copy to the mayor and to each councilmember and shall file a reasonable number of copies in the office of the clerk and at such other public places as the city council may designate.

SECTION 3.17.

Effect of ordinances.

Acts of the city council which have the force and effect of law shall be enacted by ordinance.

SECTION 3.18.

Emergencies.

To meet a public emergency affecting life, health, property, or public peace, the city council may convene on call of the mayor or four councilmembers and may promptly adopt an emergency ordinance, but such ordinance shall not levy taxes; grant, renew, or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money except for loans to be repaid within 30 days. An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of a majority of the councilmembers present shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed 30 days following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency continues to exist. An emergency ordinance shall also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

SECTION 3.19.

Codes.

(a) The city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such

adopting ordinance shall be as prescribed for ordinances generally except that: (1) the requirements of subsection (b) of Section 3.16 of this charter for distribution and filing of copies of the ordinance shall be construed to include copies of any code of technical regulations, as well as the adopting ordinance; and (2) a copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to Section 3.20 of this charter.

(b) Copies of any adopted code of technical regulations shall be made available by the clerk for distribution or for purchase at a reasonable price.

SECTION 3.20.

Codification of ordinances.

(a) The clerk shall authenticate by the clerk's signature and record in full in a properly indexed book kept for that purpose all ordinances adopted by the council.

(b) The city shall provide for the preparation of a general codification of all the ordinances of the city having the force and effect of law. The general codification shall be adopted by the city council by ordinance and shall be published promptly together with all amendments thereto and shall contain such codes of technical regulations and other rules and regulations as the city council may specify. This compilation shall be known and cited officially as "The Code of the City of Johns Creek, Georgia." Copies of the code shall be furnished to all officers, departments, and agencies of the city and shall be made available for purchase by the public at a reasonable price as fixed by the city council.

(c) The city council shall cause each ordinance and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances and charter amendments shall be made available for purchase by the public at reasonable prices to be fixed by the city council. Following publication of the first code under this charter and at all times thereafter, the ordinances and charter amendments shall be printed in substantially the same style as the code then in effect and shall be suitable in form for incorporation within the code. The city council shall make such further arrangements as deemed desirable with reproduction and distribution of any changes in or additions to codes of technical regulations and other rules and regulations included in the code.

SECTION 3.21.

Submission of ordinances to the mayor.

(a) Every ordinance, resolution, and other action adopted by the council shall be presented promptly to the mayor for signature. Except for council approval of appointments to committees, boards, and commissions, the employment of any appointed officer, internal affairs, or matters which must be approved by the voters, the mayor may veto any action adopted by the city council.

(b) The veto must be exercised no later than the next regular city council meeting following the meeting at which the action was taken. If an action is disapproved, the

mayor shall submit to the council a written statement of the reasons for the mayor's veto.

(c) An action vetoed by the mayor shall automatically be on the agenda at the next regular meeting of the city council for reconsideration. If the minimum number of councilmembers necessary to vote on overriding the veto are not present, the action may be continued until the next meeting at which the minimum number of councilmembers are present. Such action shall not become effective unless it is readopted by the affirmative votes of at least five councilmembers within 60 days of the veto and for this purpose the mayor shall vote as a councilmember.

(d) The mayor may disapprove or reduce any item or items of appropriation in any ordinance or resolution. The approved part or parts of any ordinance or resolution making appropriations shall become law, and the part or parts disapproved or reduced shall not become law unless subsequently passed by the city council over the mayor's veto as provided in this charter.

(e) If an ordinance or resolution has been signed by the mayor, it shall become effective. If an ordinance or resolution is neither approved nor disapproved by the next regular meeting of the city council, it shall become effective.

SECTION 3.22.

Powers and duties of the mayor.

(a) The mayor shall be the chief executive officer of the city government, a member of and the presiding officer of the city council, and responsible for the efficient and orderly administration of the city's affairs. The mayor shall be responsible for the enforcement of laws, rules, regulations, ordinances, and franchises in the city. The mayor may conduct inquiries and investigations into the conduct of the city's affairs and shall have such powers and duties as specified in this charter or as may be provided by ordinance consistent with this charter.

(b) The mayor shall:

- (1) Preside at all meetings of the city council;
- (2) Be the head of the city for the purpose of service of process and for ceremonial purposes and be the official spokesperson for the city and the advocate of policy;
- (3) Sign as a matter of course on behalf of the city all written and approved contracts, ordinances, resolutions, and other instruments executed by the city which by law are required to be in writing;
- (4) See that all laws and ordinances of the city are faithfully executed;
- (5) Vote on any motion, resolution, ordinance, or other question before the council and vote on any matter before a committee on which he or she serves;
- (6) Obtain short term loans in the name of the city when authorized by the city council to do so;
- (7) Appoint city council committees and appoint councilmembers to oversee and report on the functions of the various departments of the city;
- (8) Require the city manager to meet with him or her at a time and place designated for consultation and advice upon the affairs of the city;

- (9) Name qualified residents of the city to boards and commissions with approval of the city council;
 - (10) Nominate the city attorney, city clerk, city tax collector, and city accountant, subject to ratification by the city council;
 - (11) Prepare or have prepared an agenda for each meeting of the city council which shall include all business submitted by the mayor, any councilmember, the city manager, and the city attorney; and
 - (12) Fulfill and perform such other duties as are imposed by this charter and duly adopted ordinances.
- (c) The mayor shall in his or her sole discretion appoint an executive aide to the mayor. The executive aide shall serve at the pleasure of the mayor. The executive aide shall receive a salary comparable to that of city department heads, which salary shall be fixed by the mayor. The executive aide shall report directly to the mayor. The duties and responsibilities of the executive aide shall at all times be as set forth by the mayor. The executive aide shall have the authority, upon the specific request of the mayor, to act on behalf of the mayor in the mayor's ceremonial or administrative capacity. The executive aide shall have no authority to act on behalf of the mayor in a legislative or executive capacity.

SECTION 3.23.

City manager; appointment, qualification, and compensation.

The mayor shall appoint for an indefinite term an officer whose title shall be the "city manager" and the city manager shall serve at the pleasure of the mayor. The city manager shall be appointed without regard to political beliefs and solely on the basis of his or her executive and administrative qualifications with special reference to his or her educational background and actual experience in, and knowledge of, the duties of office as hereinafter prescribed.

SECTION 3.24.

City manager; chief administrative officer.

The city manager shall be the chief administrative officer of the government of the City of Johns Creek. The city manager must devote all of his or her working time and attention to the affairs of the city and shall be responsible to the mayor and council for the proper and efficient administration of the affairs of the city over which said officer has jurisdiction.

SECTION 3.25.

City manager; powers and duties enumerated.

The city manager shall have the power, and it shall be his or her duty to:

- (1) See that all laws and ordinances are enforced;
- (2) Appoint and employ all necessary employees of the city, provided that excepted

from the power of this appointment are those officers and employees who by this Act are appointed or elected by the mayor or council or departments not under the jurisdiction of the city manager;

(3) Remove employees employed by said officer without the consent of the council and without assigning any reason therefore;

(4) Exercise supervision and control of all departments and all divisions created in this charter or that may hereafter be created by the council except as otherwise provided in this Act;

(5) Attend all meetings of the council with a right to take part in the discussions, but having no vote. The city manager shall be entitled to notice of all special meetings;

(6) Recommend to the council, after prior review and approval by the mayor, for adoption such measures as the city manager may deem necessary or expedient;

(7) See that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed and upon knowledge of any violation thereof to call the same to the attention of the city attorney, whose duty it shall be forthwith to take such steps as are necessary to protect and enforce the same;

(8) Make and execute all lawful contracts on behalf of the city as to matters within said officer's jurisdiction to the extent that such contracts are funded in the city's budget, except such as may be otherwise provided by law; provided, however, that no contract purchase or obligation requiring a budget amendment shall be valid and binding until after approval of the council;

(9) Act as budget officer to prepare and submit to the council, after review and approval by the mayor, prior to the beginning of each fiscal year a budget of proposed expenditures for the ensuing year, showing in as much detail as practicable the amounts allotted to each department of the city government and the reasons for such estimated expenditures;

(10) Keep the council at all times fully advised as to the financial condition and needs of the city;

(11) Make a full written report to the council on the first of each month showing the operations and expenditures of each department of the city government for the preceding month, and a synopsis of such reports shall be published by the clerk of the city;

(12) Fix all salaries and compensation of city employees in accordance with the city budget and the city pay and classification plan; and

(13) Perform such other duties as may be prescribed by this Act or required by ordinance or resolution of the council.

SECTION 3.26.

Council interference with administration.

Except for the purpose of inquiries and investigations under Section 2.08 of this charter, the city council or its members shall deal with city officers and employees who are

subject to the direction or supervision of the manager solely through the manager, and neither the city council nor its members shall give orders to any such officer or employee, either publicly or privately.

SECTION 3.27.

Selection of mayor pro tempore.

There shall be a mayor pro tempore elected from among the councilmembers by the city council. The initial mayor pro tempore shall serve for a term expiring December 31, 2007, and successors shall serve for terms of four years. The mayor pro tempore shall continue to vote and otherwise participate as a councilmember. A vacancy in the position of mayor pro tempore resulting from the mayor pro tempore ceasing to serve as a councilmember or from any other cause shall be filled for the remainder of the unexpired term in the same manner as the original election.

SECTION 3.28.

Mayor pro tempore.

During the absence or physical or mental disability of the mayor for any cause, the mayor pro tempore of the city council, or in such person's absence or disability for any reason, any one of the councilmembers chosen by a majority vote of the city council, shall be clothed with all the rights and privileges of the mayor and shall perform the duties of the office of the mayor so long as such absence or disability shall continue. A councilmember acting as mayor shall have only one vote. A councilmember acting as mayor shall have veto power in the case of disability of the mayor but not in the case of absence of the mayor. Any such absence or disability shall be declared by majority vote of all councilmembers. The mayor pro tempore or selected councilmember shall sign all contracts and ordinances in which the mayor has a disqualifying financial interest.

ARTICLE IV

ADMINISTRATIVE AFFAIRS

SECTION 4.10.

Department heads.

(a) Except for the offices of city manager and executive aide to the mayor, the council, by ordinance, may establish, abolish, merge, or consolidate nonelective offices, positions of employment, departments, and agencies of the city as they shall deem necessary for the proper administration of the affairs and government of the city. The council shall prescribe the functions and duties of existing departments, offices, and agencies or of any departments, offices, and agencies hereinafter created or established; may provide that the same person shall fill any number of offices and positions of employment; and may transfer or change the functions and duties of offices, positions of employment, departments, and agencies of the city. The council may also contract with private or governmental parties for the performance of the functions of any such offices,

departments, or agencies.

(b) Except as otherwise provided by this charter or by law, the directors of departments and other officers of the city shall be appointed solely on the basis of their respective administrative and professional qualifications.

(c) All appointed officers and directors of departments shall receive such compensation as prescribed by the city council.

(d) There shall be a director of each department or agency who shall be its principal officer. Each director shall, subject to the direction and supervision of the city manager, be responsible for the administration and direction of the affairs and operations of the director's department or agency.

(e) The city manager may suspend directors. The director involved may appeal to the city council which, after a hearing, may override the suspension. Any removal of a director shall be by the city council.

SECTION 4.11.

Boards.

(a) The city council shall create by ordinance such boards, commissions, and authorities to fulfill any investigative, quasi-judicial, or quasi-legislative function the city council deems necessary and shall by ordinance establish the composition, period of existence, duties, and powers thereof.

(b) All members of boards, commissions, and authorities of the city shall be appointed by the mayor subject to approval by the city council for such terms of office and in such manner as shall be provided by ordinance, except where other appointing authority, terms of office, or manner of appointment is prescribed by this charter or by law.

(c) The city council, by ordinance, may provide for the compensation and reimbursement for actual and necessary expenses of the members of any board, commission, or authority.

(d) Except as otherwise provided by charter or by law, no member of any board, commission, or authority shall hold any elective office in the city.

(e) Any vacancy on a board, commission, or authority of the city shall be filled for the unexpired term in the manner prescribed for the original appointment, except as otherwise provided by this charter or by law.

(f) No member of a board, commission, or authority shall assume office until he or she has executed and filed with the clerk of the city an oath obligating himself or herself to perform faithfully and impartially the duties of the office, such oath to be prescribed by ordinance and administered by the mayor.

(g) Any member of a board, commission, or authority may be removed from office for cause by a vote of the city council.

(h) Except as otherwise provided by this charter or by law, each board, commission, or authority of the city shall elect one of its members as chairperson and one member as vice-chairperson, and may elect as its secretary one of its members or may appoint as secretary an employee of the city. Each board, commission, or authority of the city

government may establish such bylaws, rules, and regulations, not inconsistent with this charter, an ordinance of the city, or law, as it deems appropriate and necessary for the fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and regulations shall be filed with the clerk of the city.

SECTION 4.12.

City attorney.

The mayor shall nominate a city attorney subject to ratification by the council who shall be a member of the State Bar of Georgia and shall have actively practiced law for at least one year. The city attorney shall serve at the pleasure of the mayor. The city attorney shall be responsible for representing and defending the city in all litigation in which the city is a party, may be the prosecuting officer in the municipal court, shall attend the meetings of the council as directed, shall advise the city council, mayor, and other officers and employees of the city concerning legal aspects of the city's affairs, and shall perform such other duties as may be required by virtue of the position of city attorney. The city council shall provide for the compensation of the city attorney.

SECTION 4.13.

City clerk.

The mayor shall nominate a city clerk who shall not be a councilmember subject to ratification by the council. The city clerk shall serve at the pleasure of the mayor. The city clerk shall be custodian of the official city seal, maintain city council records required by this charter, and perform such other duties as may be required by the city council. The city council shall provide for the compensation of the city clerk.

SECTION 4.14.

City tax collector.

The mayor shall nominate a city tax collector subject to ratification by the council. The city tax collector shall serve at the pleasure of the mayor. The city tax collector shall collect all taxes, licenses, fees, and other moneys belonging to the city subject to the provisions of this charter and the ordinances of the city and to enforce all laws of Georgia relating to the collection of delinquent taxes and sale or foreclosure for nonpayment of taxes to the city. The city council shall provide for the compensation of the city tax collector.

SECTION 4.15.

City accountant.

The mayor shall nominate a city accountant subject to ratification by the council. The city accountant shall serve at the pleasure of the mayor. The city council shall provide for the compensation of the city accountant.

SECTION 4.16.

Rules and regulations.

The city council shall adopt rules and regulations consistent with this charter concerning:

- (1) The method of employee selection and probationary periods of employment;
- (2) The administration of a position classification and pay plan, methods of promotion and applications of service ratings thereto, and transfer of employees within the classification plan;
- (3) Hours of work, vacation, sick leave, and other leaves of absence, overtime pay, and the order and manner in which layoffs shall be effected;
- (4) Such dismissal hearings as due process may require; and
- (5) Such other personnel notices as may be necessary to provide for adequate and systematic handling of personnel affairs.

ARTICLE V**JUDICIAL BRANCH****SECTION 5.10.**

Municipal court.

There shall be a court to be known as the Municipal Court of the City of Johns Creek.

SECTION 5.11.

Judges.

- (a) The municipal court shall be presided over by a chief judge and such part-time, full-time, or stand-by judges as shall be provided by ordinance. The chief judge shall be appointed by resolution of the city council and the method of selection and terms of any other judges shall be provided by ordinance.
- (b) No person shall be qualified or eligible to serve as a judge on the municipal court unless that person shall have attained the age of 21 years and shall have been a member of the State Bar of Georgia for a minimum of three years.
- (c) Compensation of the chief judge and other judges shall be fixed by the city council. The position of chief judge shall not be a full-time position, and the person serving as chief judge may engage in the private practice of law.
- (d) The chief judge shall serve a term of four years, coincident with the term of the mayor, but may be removed for cause by a vote of five members of the city council or upon action taken by the Judicial Qualification Commission.
- (e) Before assuming office, each judge shall take an oath, given by the mayor, that the judge will honestly and faithfully discharge the duties of the office to the best of his or her ability and without fear, favor, or partiality. The oath shall be entered upon the minutes of the city council journal required in Section 3.14 of this charter.

SECTION 5.12.

Convening of court.

The municipal court shall be convened at regular intervals as provided by ordinance.

SECTION 5.13.

Powers.

- (a) The municipal court shall try and punish violations of this charter, all city ordinances, and such other violations as provided by law.
- (b) The municipal court shall have the authority to punish those in its presence for contempt, provided that such punishment shall not exceed the statutory limits for fines and imprisonment for such municipal court.
- (c) The municipal court may fix punishment for offenses within its jurisdiction, including both fines and imprisonment or alternative sentencing, provided that such fines or imprisonment does not exceed the statutory limits as now exist or hereafter provided by law.
- (d) The municipal court shall have the authority to establish a schedule of fees to defray the cost of operation and shall be entitled to reimbursement of the actual cost of meals, transportation, and caretaking of prisoners bound over to superior courts for violation of state law.
- (e) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as surety bond for the appearance of persons charged with violations. Whenever any person shall give bail for appearance and shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge presiding at such time and an execution shall be issued thereon by serving the defendant and his or her sureties with a rule nisi at least two days before a hearing on the rule nisi.
- (f) The municipal court shall have the same authority as superior courts to compel the production of evidence in the possession of any party; to enforce obedience to its orders, judgments, and sentences; and to administer such oaths as are necessary.
- (g) The municipal court shall have the authority to bind prisoners over to the appropriate court when it appears by probable cause that state law has been violated.
- (h) Each judge of the municipal court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summonses, subpoenas, and warrants which may be served as executed by any officer as authorized by this charter or by law.
- (i) Each judge of the municipal court shall be authorized to issue warrants for the arrest of persons charged with offenses against any ordinance of the city, and each judge of the municipal court shall have the same authority as a magistrate of the state to issue warrants for offenses against state laws committed within the city.
- (j) The municipal court is specifically vested with all the jurisdiction and powers throughout the geographic area of this city granted by law to municipal courts and

particularly by such laws as authorize the abatement of nuisances and prosecution of traffic violations.

SECTION 5.14.

Certiorari.

The right of certiorari from the decision and judgment of the municipal court shall exist in all criminal cases and ordinance violation cases, and such certiorari shall be obtained under the sanction of a judge of the Superior Court of Fulton County, under the laws of the State of Georgia regulating the granting and issuance of writs of certiorari.

SECTION 5.15.

Rules.

With the approval of the city council, the judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court; provided, however, that the city council may adopt in part or in toto the rules and regulations applicable to superior courts. The rules and regulations made or adopted shall be filed with the city clerk, shall be available for public inspection, and, upon request, shall be furnished to all defendants in municipal court proceedings at least 48 hours prior to said proceedings.

ARTICLE VI

FINANCE

SECTION 6.10.

Property tax.

The city council may assess, levy, and collect an ad valorem tax on all real and personal property within the corporate limits of the city that is subject to such taxation by the state and county. This tax is for the purpose of raising revenues to defray the costs of operating the city government, of providing governmental services, for the repayment of principal and interest on general obligations, and for any other public purpose as determined by the city council in its discretion.

SECTION 6.11.

Millage.

(a) The city council by ordinance shall establish a millage rate for the city property tax, a due date, and the time period within which these taxes must be paid. The city council by ordinance may provide for the payment of these taxes by installments or in one lump sum, as well as authorize the voluntary payment of taxes prior to the time when due.

(b) For all years, the millage rate imposed for ad valorem taxes on real property shall not exceed 4.731, unless a higher millage rate is recommended by resolution of the city council and subsequently approved by a majority of the eligible voters of the city by

referendum. This millage rate limit shall apply to the millage rate actually levied and shall not apply to the hypothetical millage rate computed under subsection (a) of Code Section 48-8-91 of the O.C.G.A., relating to conditions on imposition of the joint county and municipal sales tax.

SECTION 6.12.

Occupation taxes and business license fees.

The city council by ordinance shall have the power to levy such occupation or business taxes as are not denied by law. Such taxes may be levied on both individuals and corporations who transact business in this city or who practice or offer to practice any profession or calling within the city to the extent such persons have a constitutionally sufficient nexus to this city to be so taxed. The city council may classify businesses, occupations, professions, or callings for the purpose of such taxation in any way which may be lawful and may compel the payment of such taxes as provided in Section 6.18 of this charter.

SECTION 6.13.

Licenses.

The city council by ordinance shall have the power to require any individual or corporation who transacts business in this city or who practices or offers to practice any profession or calling within the city to obtain a license or permit for such activity from the city and pay a reasonable fee for such license or permit where such activities are not now regulated by general law in such a way as to preclude city regulations. Such fees may reflect the total cost to the city of regulating the activity and, if unpaid, shall be collected as provided in Section 6.18 of this charter. The city council by ordinance may establish reasonable requirements for obtaining or keeping such licenses as the public health, safety, and welfare necessitate.

SECTION 6.14.

Franchises.

The city council shall have the power to grant franchises for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, cable television companies, gas companies, transportation companies, and other similar organizations. The city council shall determine the duration, terms, whether the same shall be exclusive or nonexclusive, and the consideration for such franchises; provided, however, that no franchise shall be granted for a period in excess of 35 years and no franchise shall be granted unless the city receives just and adequate compensation therefor. The city council shall provide for the registration of all franchises with the city clerk in a registration book kept by the clerk. The city council may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

SECTION 6.15.

Utilities/infrastructure fees.

The city council by ordinance shall have the power to assess and collect fees, charges, and tolls for sewers, sanitary and health services, or any other services provided or made available inside or outside the corporate limits of the city for the total cost to the city of providing or making available such services. If unpaid, such charges shall be collected as provided in Section 6.18 of this charter.

SECTION 6.16.

Roads.

The city council by ordinance shall have the power to assess, charge, and collect the costs of constructing, reconstructing, widening, or improving any public way, street, sidewalk, curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property owners under such terms and conditions as are reasonable. If unpaid, such charges shall be collected as provided in Section 6.18 of this charter.

SECTION 6.17.

Other taxes.

This city shall be empowered to levy any other tax allowed now or hereafter by law, and the specific mention of any right, power, or authority in this article shall not be construed as limiting in any way the general powers of this city to govern its local affairs.

SECTION 6.18.

Collection of delinquent taxes.

The city council by ordinance may provide generally for the collection of delinquent taxes, fees, or other revenue due the city under Sections 6.10 through 6.17 of this charter by whatever reasonable means as are not precluded by law. This shall include providing for the dates when the taxes or fees are due, late penalties or interest, issuance and execution of fi. fas., creation and priority of liens, making delinquent taxes and fees personal debts of the persons required to pay the taxes or fees imposed, revoking city licenses for failure to pay any city taxes or fees, and providing for the assignment or transfer of tax executions.

SECTION 6.19.

Borrowing.

The city council shall have the power to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized under this charter or the laws of the state. Such bonding authority shall be exercised in accordance with the laws governing bond issuance by municipalities in effect at the time said issue is undertaken.

SECTION 6.20.

Revenue bonds.

Revenue bonds may be issued by the city council as state law now or hereafter provides. Such bonds are to be paid out of any revenue produced by the project, program, or venture for which they were issued.

SECTION 6.21.

Loans.

The city may obtain short-term loans and must repay such loans not later than December 31 of each year, unless otherwise provided by law.

SECTION 6.22.

Accounting and budgeting.

The city council shall set the fiscal year by ordinance. This fiscal year shall constitute the budget year and the year for financial accounting and reporting of each and every office, department, agency, and activity of the city government.

SECTION 6.23.

Budget ordinance.

The city council shall provide an ordinance on the procedures and requirements for the preparation and execution of an annual operating budget, a capital improvement program, and a capital budget, including requirements as to the scope, content, and form of such budgets and programs. The city council shall comply with the provisions of Chapter 81 of Title 36 of the O.C.G.A.

SECTION 6.24.

Operating budget.

On or before a date fixed by the city council but not later than 60 days prior to the beginning of each fiscal year, the city manager shall submit to the city council a proposed operating budget for the ensuing fiscal year. The budget shall be accompanied by a message from the city manager containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget, and such other comments and information as the city manager may deem pertinent. The operating budget, the capital improvements budget, the budget message, and all supporting documents shall be filed in the office of the city clerk and shall be open to public inspection.

SECTION 6.25.

Adoption.

(a) The city council may amend the operating budget proposed by the city manager, except that the budget as finally amended and adopted must provide for all expenditures required by state law or by other provisions of this charter and for all debt service requirements for the ensuing fiscal year. The total appropriations from any fund shall not exceed the estimated fund balance, reserves, and revenues.

(b) After the conducting of a budget hearing, the city council shall adopt the final operating budget for the ensuing fiscal year on or before a date fixed by ordinance of the council. If the city council fails to adopt the budget by said date, the amounts appropriated for operation for the then current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly, until such time as the city council adopts a budget for the ensuing fiscal year. Adoption of the budget shall take the form of an appropriations ordinance setting out the estimated revenues in detail by sources and making appropriations according to fund and by organizational unit, purpose, or activity as set out in the budget preparation ordinance adopted pursuant to Section 6.23 of this charter.

(c) The amount set out in the adopted operating budget for each organizational unit shall constitute the annual appropriation for such, and no expenditure shall be made or encumbrance created in excess of the otherwise unencumbered balance of the appropriations or allotments thereof to which it is chargeable.

SECTION 6.26.

Levy of taxes.

Following adoption of the operating budget, the city council shall levy by ordinance such taxes as are necessary. The taxes and tax rates set by such ordinance shall be such that reasonable estimates of revenues from such levy shall at least be sufficient, together with other anticipated revenues, fund balances, and applicable reserves, to equal the total amount appropriated for each of the several funds set forth in the annual operating budget for defraying the expense of the general government of this city.

SECTION 6.27.

Changes in budget.

The city council by majority vote may make changes in the appropriations contained in the current operating budget at any regular meeting or special or emergency meeting called for such purposes.

SECTION 6.28.

Capital improvements.

(a) On or before the date fixed by the city council, but not later than 60 days prior to the beginning of each fiscal year, the city manager shall submit to the city council a proposed capital improvements budget with any recommendations as to the means of financing the improvements proposed for the ensuing year. The city council shall have the power to accept, with or without amendments, or reject the proposed program and proposed means of financing. The city council shall not authorize an expenditure for the construction of any building, structure, work, or improvement, unless the appropriations for such project are included in the capital improvements budget, except to meet a public emergency as provided in Section 3.17 of this charter.

(b) After the conducting of a public hearing, the city council shall adopt by ordinance the final capital improvements budget for the ensuing fiscal year on or before a date fixed by ordinance of the council. No appropriations provided for in a prior capital improvements budget shall lapse until the purpose for which the appropriations were made shall have been accomplished or abandoned; provided, however, the mayor may submit amendments to the capital improvements budget at any time during the fiscal year, accompanied by any recommendations. Any such amendments to the capital improvements budget shall become effective only upon adoption by majority vote of the city council.

SECTION 6.29.

Audits.

There shall be an annual independent audit of all city accounts, funds, and financial transactions by a certified public accountant selected by the city council. The audit shall be conducted according to generally accepted accounting principles. Any audit of any funds by the state or federal government may be accepted as satisfying the requirements of this charter. Copies of all audit reports shall be available at printing costs to the public.

SECTION 6.30.

Procurement and property management.

No contract with the city shall be binding on the city unless:

- (1) It is in writing;
- (2) It is drawn or submitted and reviewed by the city attorney and, as a matter of course, is signed by the city attorney to indicate such drafting or review; and
- (3) It is made or authorized by the city council and such approval is entered in the city council journal of proceedings pursuant to Section 3.14 of this charter.

SECTION 6.31.

Purchasing.

The city council shall by ordinance prescribe procedures for a system of centralized purchasing for the city.

SECTION 6.32.**Sale of property.**

- (a) The city council may sell and convey any real or personal property owned or held by the city for governmental or other purposes as now or hereafter provided by law, as well as any abandoned or surplus property.
- (b) The city council may quitclaim any rights it may have in property not needed for public purposes upon request by the mayor and adoption of a resolution, both finding that the property is not needed for public or other purposes and that the interest of the city has no readily ascertainable monetary value.
- (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place of the city a small parcel or tract of land is cut off or separated by such work from a larger tract or boundary of land owned by the city, the city council may authorize the mayor to execute and deliver in the name of the city a deed conveying said cut-off or separated parcel or tract of land to an abutting or adjoining property owner or owners in exchange for rights of way of said street, avenue, alley, or public place when such exchange is deemed to be in the best interest of the city. All deeds and conveyances heretofore and hereafter so executed and delivered shall convey all title and interest the city has in such property, notwithstanding the fact that no public sale after advertisement was or is hereafter made.

SECTION 6.33.**General homestead exemption.**

- (a) As used in this section, the term:
 - (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Johns Creek, except for any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.
 - (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.
- (b) Each resident of the City of Johns Creek is granted an exemption on that person's homestead from City of Johns Creek ad valorem taxes for municipal purposes in the amount of \$15,000.00 of the assessed value of that homestead. The value of that property in excess of such exempted amount shall remain subject to taxation.
- (c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Johns Creek, or the designee thereof, giving such information relative to receiving such exemption as will enable the governing authority of the City of Johns Creek, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Johns Creek, or the designee thereof, shall provide application forms for this purpose.
- (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1

of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application, as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Johns Creek, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2007.

SECTION 6.34.

General homestead exemption for citizens age 65 or over.

(a) As used in this section, the term:

(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Johns Creek except for any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

(3) "Senior citizen" means a person who is 65 years of age or over on or before January 1 of the year in which application for the exemption under subsection (b) of this section is made.

(b) Each resident of the City of Johns Creek who is a senior citizen is granted an exemption on that person's homestead from City of Johns Creek ad valorem taxes for municipal purposes in the amount of \$15,000.00 of the assessed value of that homestead. The value of that property in excess of such exempted amount shall remain subject to taxation.

(c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Johns Creek, or the designee thereof, giving the person's age and such additional information relative to receiving such exemption as will enable the governing authority of the City of Johns Creek, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Johns Creek, or the designee thereof, shall provide application forms for this purpose.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1

of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application, as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Johns Creek, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2007.

SECTION 6.35.

Homestead exemption for citizens age 65 or over
meeting certain income requirements.

(a) As used in this section, the term:

(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Johns Creek, including, but not limited to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

(3) "Income" means adjusted gross income as such term is defined in the Internal Revenue Code of 1986, as such code is defined in Code Section 48-1-2 of the O.C.G.A., except that for purposes of this section the term shall include only that portion of income or benefits received as retirement, survivor, or disability benefits under the federal Social Security Act or under any other public or private retirement, disability, or pension system which exceeds the maximum amount which may be received by an individual and an individual's spouse under the federal Social Security Act.

(4) "Senior citizen" means a person who is 65 years of age or over on or before January 1 of the year in which application for the exemption under subsection (b) of this section is made.

(b) Each resident of the City of Johns Creek who is a senior citizen is granted an exemption on that person's homestead from City of Johns Creek ad valorem taxes for municipal purposes in the amount of \$10,000.00 of the assessed value of that homestead. The exemption granted by this subsection shall only be granted if that person's income,

together with the income of the spouse who also occupies and resides at such homestead does not exceed the maximum amount which may be received by an individual and an individual's spouse under the federal Social Security Act for the immediately preceding year. The value of that property in excess of such exempted amount shall remain subject to taxation.

(c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Johns Creek, or the designee thereof, giving the person's age, income, and such additional information relative to receiving such exemption as will enable the governing authority of the City of Johns Creek, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Johns Creek, or the designee thereof, shall provide application forms for this purpose.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application, as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Johns Creek, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2007.

SECTION 6.36.

Homestead exemption for citizens age 70 or over
and disabled persons meeting certain income requirements.

(a) As used in this section, the term:

(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Johns Creek, including, but not limited to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

(3) "Income" means adjusted gross income determined pursuant to the Internal

Revenue Code of 1986, as amended, for federal income tax purposes, except that for the purposes of this section the term shall include only that portion of income or benefits received as retirement, survivor, or disability benefits under the federal Social Security Act or under any other public or private retirement, disability, or pension system which exceeds the maximum amount which may be received by an individual and an individual's spouse under the federal Social Security Act.

(4) "Senior citizen" means a person who is 70 years of age or over on or before January 1 of the year in which application for the exemption under subsection (b) of this section is made.

(b) Each resident of the City of Johns Creek who is a senior citizen or who is disabled is granted an exemption on that person's homestead from City of Johns Creek ad valorem taxes for municipal purposes for the full value of that homestead. The exemption granted by this subsection shall only be granted if that person's income, together with the income of the spouse who also occupies and resides at such homestead does not exceed the maximum amount which may be received by an individual and an individual's spouse under the federal Social Security Act for the immediately preceding year.

(c)(1) In order to qualify for the exemption provided for in subsection (b) of this section as being disabled, the person claiming such exemption shall be required to obtain a certificate from not more than three physicians licensed to practice medicine under Chapter 34 of Title 43 of the O.C.G.A., as amended, certifying that in the opinion of such physician or physicians such person is mentally or physically incapacitated to the extent that such person is unable to be gainfully employed and that such incapacity is likely to be permanent. Such certificate or certificates shall constitute part of and be submitted with the application provided for in paragraph (2) of this subsection.

(2) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Johns Creek, or the designee thereof, giving the person's age, income, and such additional information relative to receiving such exemption as will enable the governing authority of the City of Johns Creek, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Johns Creek, or the designee thereof, shall provide application forms for this purpose.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application, as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Johns Creek, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by subsection (b) of this section shall not apply to or affect

state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2007.

ARTICLE VII

GENERAL PROVISIONS

SECTION 7.10.

Bonds for officials.

The officers and employees of this city, both elected and appointed, shall execute such surety or fidelity bonds in such amounts and upon such terms and conditions as the city council shall from time to time require by ordinance or as may be provided by law.

SECTION 7.11.

Charter language on other general matters.

Except as specifically provided otherwise by this charter, all rights, claims, actions, orders, contracts, and legal or administrative proceedings shall continue and any such ongoing work or cases shall be completed by such city agencies, personnel, or offices as may be provided by the city council.

SECTION 7.12.

Definitions and construction.

(a) Section captions in this charter are informative only and shall not be considered as a part thereof.

(b) The word "shall" is mandatory and the word "may" is permissive.

(c) The singular shall include the plural, the masculine shall include the feminine, and vice versa.

SECTION 7.13.

Qualified electors.

(a) For the purposes of the referendum elections provided for in Section 7.14 of this Act the qualified electors shall be those qualified electors of Fulton County residing within the areas described in Appendixes A and B of this charter.

(b) For the purposes of the special election to be held on the Tuesday after the first Monday in November, 2006, the qualified electors shall be those qualified electors of Fulton County residing within the City of Johns Creek, as determined according to the

results of the election provided for in Section 7.14 of this Act.

(c) At subsequent municipal elections, the qualified electors of the City of Johns Creek shall be determined pursuant to the authority of Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

(d) Only for the purpose of holding and conducting the referendum election provided for by Section 7.14 of this Act and only for the purpose of holding and conducting the special election of the City of Johns Creek to be held on the Tuesday after the first Monday in November, 2006, the election superintendent of Fulton County is vested with the powers and duties of the election superintendent of the City of Johns Creek and the powers and duties of the governing authority of the City of Johns Creek.

SECTION 7.14.

Referendum.

(a) Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of Fulton County shall call two special elections for the purpose of submitting this Act to the qualified voters, as provided in subsection (a) of Section 7.13 of this charter, for approval or rejection. The superintendent shall set the date of such elections for the date of the general primary in 2006. The superintendent shall issue the call for such elections at least 30 days prior to the date thereof. The superintendent shall cause the date and purpose of the elections to be published once a week for two weeks immediately preceding the date thereof in the official organ of Fulton County. The ballot shall have written or printed thereon the words:

"() YES Do you approve the creation of the City of Johns Creek and the property tax rate cap and the granting of the homestead exemptions described in
() NO the Act creating the City of Johns Creek?"

All persons desiring to vote for approval of the Act shall vote "Yes," and those persons desiring to vote for rejection of the Act shall vote "No." The expense of the special elections set forth in this section shall be borne by Fulton County. It shall be the duty of the superintendent to hold and conduct such elections. It shall be his or her further duty to certify the results thereof to the Secretary of State.

(b) One special election provided for in subsection (a) of this section shall be held and conducted in the area described in Appendix A of this charter and one such special election shall be held in the area described in Appendix B of this charter. The votes of each special election shall be counted separately, and the results shall be as follows:

(1) If more than one-half of the votes cast on such question in the special election in the area described in Appendix A of this charter are for approval of the Act, it shall become of full force and effect and the territorial limits of the city shall include the area described in Appendix A of this charter. Otherwise, if one-half or less of the votes cast on such question in the special election in the area described in Appendix A of this charter are for approval of the Act it shall thereafter be void and of no force or effect, regardless of the outcome of the special election in the area described in Appendix B of

this charter; and

(2) If more than one-half of the votes cast on such question in the special election in the area described in Appendix A of this charter are for approval of the Act and more than one-half of the votes cast on such question in the special election in the area described in Appendix B of this charter are for approval of the Act, the territorial limits of the city shall include the area described in Appendix B of this charter as well as the area described in Appendix A of this charter. If more than one-half of the votes cast on such question in the special election in the area described in Appendix A of this charter are for approval of the Act and one-half or less of the votes cast on such question in the special election in the area described in Appendix B of this charter are for approval of the Act, the territorial limits of the city shall include the area described in Appendix A but shall not thereafter include the area described in Appendix B of this charter.

SECTION 7.15.

Effective dates.

(a) Sections 1.10 and 1.11 of this Act and those provisions of the Act necessary for the special election provided for in Section 7.14 of this charter shall become effective immediately upon this Act's approval by the Governor or upon its becoming law without such approval.

(b) Those provisions of this Act necessary for the special election to be held on the Tuesday after the first Monday in November, 2006, as provided by Article II of this charter shall be effective upon the certification of the results of the referendum election provided for by Section 7.14 of this charter, if this Act is approved at such referendum election.

(c) The remaining provisions of this Act shall become of full force and effect for all purposes on December 1, 2006, except that the initial mayor and councilmembers shall take office immediately following their election and by action of a quorum may prior to December 1, 2006, meet and take actions binding on the city.

SECTION 7.16.

Transition.

(a) A period of time will be needed for an orderly transition of various government functions from Fulton County to the City of Johns Creek. Accordingly there shall be a transition period beginning on December 1, 2006, and ending at midnight on November 30, 2008. During such transition period, all provisions of this charter shall be effective as law, but not all provisions of this charter shall be implemented.

(b) During such transition period, Fulton County shall continue to provide within the territorial limits of Johns Creek all government services and functions which Fulton County provided in that area at the time of enactment of this charter and at actual cost as provided pursuant to Code Section 36-31-8 of the O.C.G.A., except to the extent otherwise provided in this section; provided, however, that upon at least 30 days' written

notice to Fulton County by the City of Johns Creek, responsibility for any such service or function shall be transferred to the City of Johns Creek. Effective December 1, 2006, the City of Johns Creek shall collect taxes, fees, assessments, fines and forfeitures, and other moneys within the territorial limits of Johns Creek. Where a particular tax, fee, assessment, fine, forfeiture, or other amount collected is specifically related to the provision of a particular government service or function by Fulton County, the service or function shall continue to be provided by the county contingent upon payment by the city of the actual cost of providing such service or function unless otherwise provided in a written agreement between the city and the county. Any existing contract for the performance of a governmental service with a private person residing or doing business within the city limits shall not be altered or adversely affected by the establishment by this Act of the City of Johns Creek.

(c) During the transition period, the governing authority of the City of Johns Creek:

- (1) Shall hold regular meetings and may hold special meetings as provided in this charter;
- (2) May enact ordinances and resolutions as provided in this charter;
- (3) May amend this charter by home rule action as provided by general law;
- (4) May accept gifts and grants;
- (5) May borrow money and incur indebtedness to the extent authorized by this charter and general law;
- (6) May levy and collect an ad valorem tax for calendar years 2007 and 2008;
- (7) May establish a fiscal year and budget;
- (8) May create, alter, or abolish departments, boards, offices, commissions, and agencies of the city; appoint and remove officers and employees; and exercise all necessary or appropriate personnel and management functions; and
- (9) May generally exercise any power granted by this charter or general law, except to the extent that a power is specifically and integrally related to the provision of a governmental service, function, or responsibility not yet provided or carried out by the city.

(d) Except as otherwise provided in this section, during the transition period the Municipal Court of the City of Johns Creek shall not exercise its jurisdiction. During the transition period, all ordinances of Fulton County shall remain applicable within the territorial limits of Johns Creek and the appropriate court or courts of Fulton County shall retain jurisdiction to enforce such ordinances. Upon notice by the City of Johns Creek, Fulton County shall transfer all or part of such regulatory authority and the appropriate court jurisdiction to the City of Johns Creek as contained in such notice. Any transfer of jurisdiction to the City of Johns Creek during or at the end of the transition period shall not in and of itself abate any judicial proceeding pending in Fulton County or the pending prosecution of any violation of any ordinance of Fulton County.

(e) During the transition period, the governing authority of Johns Creek may at any time, without the necessity of any agreement by Fulton County, commence to exercise its planning and zoning powers; provided, however, that the city shall give the county notice of the date on which the city will assume the exercise of such powers. Upon the

governing authority of Johns Creek commencing to exercise its planning and zoning powers, the Municipal Court of the City of Johns Creek shall immediately have jurisdiction to enforce the planning and zoning ordinances of the city. The provisions of this subsection shall control over any conflicting provisions of any other subsection of this section.

(f) Effective upon the termination of the transition period, subsections (b) through (e) of this section shall cease to apply except for the last sentence of subsection (d) which shall remain effective. Effective upon the termination of the transition period, the City of Johns Creek shall be a full functioning municipal corporation and subject to all general laws of this state.

SECTION 7.17.

Directory nature of dates.

It is the intention of the General Assembly that this Act be construed as directory rather than mandatory with respect to any date prescribed in this Act. If it is necessary to delay any action called for in this Act for providential cause, delay in securing approval under the federal Voting Rights Act, or any other reason, it is the intention of the General Assembly that the action be delayed rather than abandoned. Any delay in performing any action under this Act, whether for cause or otherwise, shall not operate to frustrate the overall intent of this Act. Without limiting the generality of the foregoing it is specifically provided that:

- (1) If it is not possible to hold the referendum election provided for in Section 7.14 of this Act on the date specified in that section, then such referendum shall be held as soon thereafter as is reasonably practicable; and
- (2) If it is not possible to hold the first municipal election provided for in Section 2.11 of this Act on the date specified in that section, then there shall be a special election for the initial members of the governing authority to be held as soon thereafter as is reasonably practicable, and the commencement of the initial terms of office shall be delayed accordingly.

SECTION 7.18.

Charter commission.

At the first regularly scheduled city council meeting, five years after the inception of the City of Johns Creek, the mayor and city council shall create a charter commission to review the city's experience and recommend to the General Assembly any changes to the city charter. All members of the charter commission must reside in the City of Johns Creek. The commission must complete the recommendations within six months of its creation.

SECTION 7.19.

Severability.

In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full force and effect, as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof. The General Assembly hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

SECTION 7.20.

General repealer.

All laws and parts of laws in conflict with this Act are repealed.

APPENDIX A

If approved by the voters as described in Section 7.14 of this charter, the corporate limits of the City of Johns Creek shall include the following described territory of Fulton County except that the corporate limits of the City of Johns Creek shall not include any part of the following described territory which has been validly annexed to another city by an annexation completed before this Act is approved by the Governor or becomes law without such approval:

Commencing at the northeasterly point of Fulton County, Georgia at the point where Fulton County, Georgia intersects the westerly county line of Gwinnett County, Georgia, the southerly county line of Forsyth County, Georgia, as the boundaries existed on January 1, 2006, and the Chattahoochee River; running thence generally southwesterly along the southeastern line of Fulton County where it intersects the northeasterly line of Gwinnett County, following the meanderings of the Chattahoochee River, to the point where said Fulton-Gwinnett County line intersects the dividing line between Fulton County Voting Precincts NC11A and NC06, as they existed on January 1, 2006; thence leaving said Fulton-Gwinnett County line, running northwesterly along said dividing line between voting precincts to its intersection with Barnwell Road; thence following Barnwell Road northeasterly to the point where said right-of-way intersects with Jones Bridge Road; thence following Jones Bridge Road northerly to the point where said right-of-way intersects with Old Alabama Road; thence following the right-of-way of Old Alabama Road west to the point where said right-of-way intersects with the right-of-way of Brumbelow Road; thence following the right-of-way of Brumbelow Road south to the point where said right-of-way intersects with the south land lot line of Land Lot 924, 1st District, 2nd Section, Fulton County, Georgia, said point also being the southeastern corner of that certain parcel of land (Fulton County tax id# 12318008950488, according to the parcel numbering system existing on January 1, 2006) described in that certain Quit Claim Deed, dated May 5, 1997, recorded in Deed Book 22692, page 012, Official Deed Records of Fulton County, Georgia, said

point further representing the southeasterly corner of Newtown Park; thence leaving said right-of-way running west along the south line of Land Lots 924 and 895, aforesaid District and Section, to a point at the intersection of Land Lots 894, 895, 869 and 870, aforesaid District and Section, said point also being the southwest corner of Newtown Park; thence running north along the west land lot line of Land Lot 895 to a point to its northernmost point adjacent to the east boundary of the Chartwell Subdivision, as set out on that certain plat entitled Final Subdivision Plat of Chartwell, Unit 1, Phase 1, by Travis Pruitt & Associates, Inc., recorded at Plat Book 188, page 49, Official Deed Records of Fulton County, Georgia; thence leaving said land lot line following the east boundary of the Chartwell Subdivision northwesterly to Old Alabama Road; thence running along the right-of-way of Old Alabama Road to its intersection with the northeast corner of the Old Alabama Square Shopping Center as set out on that certain plat entitled Old Alabama Square, Exemption Plat, by Post, Buckley, Schuh & Jernigan, Inc., recorded at Plat Book 220, page 124, Official Deed Records of Fulton County, Georgia; thence leaving said right-of-way running south and southwest along the east line of said shopping center parcel (said line also being set out on the aforementioned plat of Chartwell Subdivision) to a point at the southeast corner of said shopping center parcel; thence running west along the south line of said shopping center parcel to a point at the centerline of a creek, the same being located at the southwest corner of said shopping center parcel, said point also being located on the east property line of that certain parcel of land (Fulton County tax id# 12304008391576, according to the parcel numbering system existing on January 1, 2006) said parcel being described in that certain General Warranty Deed, dated June 24, 1999, recorded in Deed Book 27358, page 340, Official Deed Records of Fulton County, Georgia; thence running southerly along the meanderings of said creek along the east line of said parcel of land (Fulton County tax id# 12304008391576) to its intersection with the south land lot line of Land Lot 840, aforesaid District and Section; thence leaving the centerline of said creek running west along the south line of land lots 840 and 817 to its intersection with the easterly boundary of City of Roswell, Georgia, as said boundary existed on January 1, 2006, at the right-of-way of Nesbit Ferry Road; thence running north along said right-of-way of Nesbit Ferry Road to the point in Land Lot 818, aforesaid District and Section, where said eastern boundary leaves the right-of-way of Nesbit Ferry Road; thence following said eastern boundary northwest to the point where said eastern boundary intersects the east land lot line of Land Lot 787, aforesaid District and Section; thence running northeasterly along the eastern boundary of the City of Roswell, Georgia, following the courses and distances thereof, to a point in Land Lot 867, aforesaid District and Section, where said boundary line intersects the northwest corner of the Magnolia Park Subdivision as set out on that certain plat entitled Final Plat for Magnolia Park, by Post, Buckley, Schuh & Jernigan, Inc., recorded at Plat Book 224, page 89, Official Deed Records of Fulton County, Georgia, said point also lying on the south line of the Willow Springs Subdivision, as set out on that certain plat entitled Final Plat Willow Springs S/D, Unit 5, by Mayes Sudderth & Etheridge, Inc., recorded at Plat Book 116, page 40, Official Deed Records of Fulton

County, Georgia; thence leaving said boundary line of the City of Roswell, Georgia, running southwest along the west line of said Magnolia Park Subdivision to a point at the southwest corner of said Magnolia Park Subdivision; thence running east, north and east along the south line of said Magnolia Park Subdivision to the point where said line intersects with Haynes Bridge Road at the southeast corner of said Magnolia Park Subdivision; thence running north along the right-of-way of Haynes Bridge Road, to the point in Land Lot 867, aforesaid District and Section, at the northerly intersection of said right-of-way with the east boundary line of the aforementioned Final Plat Willow Springs S/D, Unit 5; thence leaving said right-of-way running west along the boundary line of the Willow Springs Subdivision to a point on the west land lot line of Land Lot 867, aforesaid District and Section; thence continuing north along said east boundary line of Willow Springs Subdivision following the west land lot line of Land Lots 867 and 866, aforesaid District and Section, to the point at the intersection of Land Lots 843, 844, 865 and 866, aforesaid District and Section, said point also lying on the south boundary line of that certain Wentworth Subdivision as set out on that certain plat entitled Final Plat for Wentworth, by Hayes, James & Associates, recorded at Plat Book 214, page 129, Official Deed Records of Fulton County, Georgia; thence running west along the south boundary of Wentworth Subdivision, and Land Lot 844, aforesaid District and Section, to a point at the southwest corner of said subdivision; thence leaving said land lot line running north along the west boundary of said Wentworth Subdivision, following the courses and distances thereof across the right-of-way of Haynes Bridge Road, to a point at the northwest corner of said Wentworth Subdivision, said point being located on the north line of Land Lot 844, aforesaid District and Section; thence running east along the north line of said Wentworth Subdivision, along the north lines of Land Lots 844 and 865, aforesaid District and Section, to a point at the northeast corner of said subdivision; thence leaving said land lot line, running south along the east boundary of said Wentworth Subdivision to the point at which said boundary line intersects the northerly point of that certain parcel of land (Fulton County tax id# 12302008650447, according to the parcel numbering system existing on January 1, 2006) described in that certain Deed, dated September 1, 2004, recorded in Deed Book 38424, page 122, Official Deed Records of Fulton County, Georgia; thence running southeast and southerly along the east property line of said parcel of land to a point, said point also lying at the northeast corner of that certain parcel of land (Fulton County tax id# 12302008650173, according to the parcel numbering system existing on January 1, 2006) described in that certain Deed, dated September 2, 2004, recorded in Deed Book 38424, page 118, Official Deed Records of Fulton County; thence running south along the east line of said parcel of land (Fulton County tax id# 12302008650173) to a point at the southeast corner of said parcel of land; thence running southwest along the southeast property line of said parcel of land (Fulton County tax id# 12302008650173) to a point on the right-of-way of Haynes Bridge Road; thence following the right-of-way of Haynes Bridge Road southeast to the intersection of Haynes Bridge Road and Alvin Road; thence running northeasterly along Alvin Road to a point at its intersection in Land Lot 898, aforesaid District and

Section, with the southeast corner of the Berkshire Manor Subdivision, Unit One, as set out on that certain plat recorded in the Official Deed Records of Fulton County, Georgia; thence running north along the east boundary of said Berkshire Manor Subdivision following said east boundary of the Berkshire Manor Subdivision along Unit One, Unit Three, and Unit Five thereof, to the point at which said east boundary intersects the south line of Land Lot 900 the same lying at the southwest corner of the Summer Trace Subdivision as set out on that certain plat entitled Final Plat for Summer Trace, Unit Two, by Civil Design, Inc., recorded at Plat Book 149, page 5, Official Deed Records of Fulton County, Georgia; thence running east along said south land lot line to point at the intersection of said land lot line and the southeast corner of Lot 104 of set forth on said Summer Trace Subdivision Plat; thence leaving said land lot line running northwest along the northeast property line of said Lot 104 to the north corner of said lot 104, said point also being located at the southwest corner of Unit III of the Summer Trace Subdivision as set out on that certain Final Plat for Summer Trace, unit III, by Civil Design, Inc., recorded at Plat Book 153, page 1, Official Deed Records of Fulton County, Georgia; thence running northwest along the westerly line of said Unit III of the Summer Trace Subdivision following the courses and distances thereof to a point at its intersection with the City of Alpharetta, Georgia, as it existed on January 1, 2006, at Long Indian Creek; thence following said boundary line of the City of Alpharetta, Georgia southeasterly along the meanderings of Long Indian Creek to the point where Long Indian Creek intersects the easterly line of Land Lot 864, aforesaid District and Section, there leaving said boundary line of the City of Alpharetta, Georgia; thence continuing along the meanderings of Long Indian Creek easterly to the point where Long Indian Creek intersects the east line of Land Lot 918, aforesaid District and Section; thence leaving Long Indian Creek running south along said east land lot line of Land Lot 918 to the point where said east line intersects with the north line of Land Lot 11, 1st District, 1st Section of Fulton County, Georgia; thence running east along said north land lot line of said Land Lot 11 to a point where said land lot line intersects with that certain Storm Drain Line located northeasterly from the northeastern line of Timberstone Subdivision, Section III, as set out on that certain plat entitled Final Subdivision Map for Timberstone Section III, by Urban Engineers, Inc., recorded at Plat Book 115, page 81, Official Deed Records of Fulton County, Georgia; thence following the meanderings of said Storm Drain Line southeasterly in said Land Lot 11 to the point where said Storm Drain Line intersects with the south line of said Land Lot 11; thence running east along said south line of said Land Lot 11 to the point at the intersection of Land Lots 11, 12, 35 and 36, aforesaid District and Section; thence running south along the east line of said Land Lot 12 to the point where said land lot line intersects with the southwest corner of Lauren Hall Subdivision, as set out on that certain plat entitled Final Plat of Lauren Hall Subdivision, by Watts & Browning Engineers, Inc., dated February 13, 1995, recorded at Plat Book 186, page 2, Official Deed Records of Fulton County, Georgia; thence running easterly along the south line of said Lauren Hall Subdivision following the courses and distances thereof to a point on the northwesterly right-of-way

of Jones Bridge Road; thence running northeast along said northwesterly right-of-way of Jones Bridge Road to the point at which said right-of-way intersects the northeast right-of-way of Waters Road; thence leaving said right-of-way of Jones Bridge Road running northwest along said northeast right-of-way of Waters Road to a point at the northwesterly corner of that certain parcel of land (Fulton County tax id# 11018000580174, according to the parcel numbering system existing on January 1, 2006) described in that certain Warranty Deed, dated January 2, 1996, recorded in Deed Book 20494, page 331, Official Deed Records of Fulton County, Georgia; thence leaving said right-of-way running northeasterly along the northerly property line of said parcel of land to a point at the northeast corner of said parcel of land, said point also constituting the northwesterly corner of that certain parcel of land (Fulton County tax id# 11018000581370, according to the parcel numbering system existing on January 1, 2006) described in that certain Warranty Deed, dated April 19, 2002, recorded in Deed Book 32301, page 65, Official Deed Records of Fulton County, Georgia; thence running northeasterly along the northerly property line of said parcel of land (Fulton County tax id# 11018000581370) to a point at the northeast corner of said parcel of land, said point being located on the southwesterly property line of that certain parcel of land (Fulton County tax id# 11018000570290, according to the parcel numbering system existing on January 1, 2006) described in that certain Warranty Deed, dated October 10, 2001, recorded in Deed Book 31201, page 149, Official Deed Records of Fulton County, Georgia; thence running northwesterly along said southwesterly property line to a point at the northwest corner of said parcel of land; thence running southeasterly along the northwesterly property line to a point at the northeast corner of said parcel of land, said point being located on the east land lot line of Land Lot 58, aforesaid District and Section; thence running north along the east line of Land Lots 58, 57, and 56, aforesaid District and Section, to a point at the intersection of Land Lots 55, 56, 77 and 78, aforesaid District and Section; thence running east along the north line of Land Lots 77 and 96, aforesaid District and Section, to a point at the intersection of Land Lots 95, 96, 115 and 116, aforesaid District and Section; thence running south along the east line of said Land Lot 96 to a point located at the northwesterly corner of that certain parcel of land (Fulton County tax id# 11028001150240, according to the parcel numbering system existing on January 1, 2006) described in that certain Executor's Deed, dated May 28, 2003, recorded in Deed Book 35203, page 391 Official Deed Records of Fulton County, Georgia; thence leaving said land lot line running east along the north property line of said parcel of land (Fulton County tax id# 11028001150240), to a point on the westerly right-of-way of Buice Road; thence following said right-of-way northerly and westerly to the point where said right-of-way intersects the east line of Land Lot 94, aforesaid District and Section, said point being located on the east boundary of Ocee Park; thence leaving said right-of-way running south along said east line to a point at the intersection of Land Lots 94, 95, 116, and 117, aforesaid District and Section; thence running west along the south line of said Land Lot 94 to a point at the intersection of Land Lots 78, 79, 94 and 95, aforesaid District and Section; running thence north along the west line of said Land Lot 94 to a

point at the intersection of Land Lots 79, 80, 93 and 94, aforesaid District and Section; thence running east along the north line of said Land Lot 94 to a point located at the southeast corner of that certain parcel of land (Fulton County tax id# 11027000930164, according to the parcel numbering system existing on January 1, 2006) the same being set forth on that certain plat entitled Final Plat for Donald Allen Fuqua, by Brumbelow-Reese & Assoc., Inc., dated November 10, 1983, recorded at Plat Book 133, page 16, Official Deed Records of Fulton County, Georgia; thence leaving said land lot line running northwesterly along the east property line of said parcel of land to a point on the southeast right-of-way of Kimball Bridge Road; thence running northeast along said right-of-way to the intersection of said right-of-way and the east right-of-way of Buice Road; thence leaving said right-of-way of Kimball Bridge Road running southeasterly along the east right-of-way of Buice Road, following the courses and distances thereof, to the point at the intersection of said right-of-way and the south line of Land Lot 116, aforesaid District and Section, said point being located at the southwest corner of the Pinewalk Subdivision, Unit One, as set forth on that certain plat entitled Final Plat – Unit One – Pinewalk Subdivision, by Engineering and Surveying, Inc., recorded at Plat Book 158, page 101, Official Deed Records of Fulton County, Georgia; thence leaving said right-of-way of Buice Road running east along the south line of Land Lots 116 and 133, aforesaid District and Section, along the south property line of said Pinewalk Subdivision to a point at the southeast corner of said subdivision; thence leaving said land lot line running north along the east property line of said Pinewalk Subdivision, Unit One, as shown on said plat, to a point at the northeast corner of said Pinewalk Subdivision; thence running west along the north line of said Pinewalk Subdivision, Unit One, as shown on said plat, to the point at which said property line intersects with the west land lot line of said Land Lot 133; thence running north along the west land lot line of Land Lot 133, 132 and 131, aforesaid District and Section to a point at the intersection of Land Lots 118, 119, 130 and 131, aforesaid District and Section; thence running west along the south line of said Land Lot 119, 100.31 feet to a point at the intersection of said land lot line and the a point immediately south of the southeast corner of The Pines at Kimball Bridge, Unit One, as set forth on that certain plat entitled Final Plat of: The Pines at Kimball Bridge, Unit One, by Hayes, James & Associates, recorded at Plat Book 140, page 33, Official Deed Records of Fulton County, Georgia; thence leaving said south land lot line running north to and along the east line of said subdivision continuing along said course across the right-of-way of Kimball Bridge Road to a point on the northwesterly right-of-way of Kimball Bridge Road; thence running northeasterly following said northwesterly right-of-way of Kimball Bridge Road to a point at the intersection of said right-of-way with the westerly right-of-way of Fox Road; thence running northerly along said westerly right-of-way of Fox Road to a point where said right-of-way intersects with the south line of Land Lot 196, aforesaid District and Section; thence leaving said right-of-way running east along the south line of Land Lots 196 and 232, aforesaid District and Section to a point at the intersection of said land lot line and the southeast corner of that certain Windward/Southpointe Development as set forth on that certain plat entitled Final Plat

for Windward Properties, Inc. Being Pod 39, Blocks I, J &K, Windward/Southpointe, by Rochester Associates, Inc., recorded at Plat Book 159, page 130, Official Deed Records of Fulton County, Georgia; thence leaving said south land lot line running north along the east property line of said Windward/Southpointe Development to a point where said east property line intersects with the north line of Land Lot 232, aforesaid District and Section; thence running east along the north lines of Land Lots 232 and 233, aforesaid District and Section to the point at the intersection of said land lot line of Land Lot 233 and the northwest right-of-way of Jones Bridge Road; thence leaving said land lot line running northeast along said northwest right-of-way of Jones Bridge Road to the point where said right-of-way intersects the east line of Land Lot 1256, 2nd District, 1st Section, Fulton County, Georgia; running thence north along the east line of Land Lots 1256, 1231, 1190 and 1165, aforesaid District and Section, to the northerly point of Laurel Cove Subdivision – Unit II on said east line of said Land Lot 1165 as set forth on that certain plat entitled Final Plat Laurel Cove – Unit II, Douglas Road (Formerly Known as Huntington Trace Subdivision – Unrecorded), by Patterson & Smith, Inc., dated October 2, 2001, last revised August 7, 2002, recorded at Plat Book 231, page 88, Official Deed Records of Fulton County, Georgia; thence leaving said land lot line running northwesterly along the northeasterly property line of said Unit II of said subdivision, following the courses and distances thereof, to the point where said property line intersects the easterly property line of Laurel Cove Subdivision, Unit I, as set forth on that certain plat entitled Final Plat Laurel Cove / Douglas Road, dated May 3, 2001, recorded at Plat Book 238, page 74, Official Deed Records of Fulton County, Georgia, thence continuing northerly, following the courses and distances of Unit I thereof, to the point at which said easterly property line

of said Laurel Cove Subdivision, Unit I, intersects with the north land lot line of Land Lot 1165, aforesaid District and Section; thence running east along the north line of Land Lot 1165, aforesaid District and Section, to a point located at the intersection of Land Lots 1124, 1125, 1164 and 1165, aforesaid District and Section; thence leaving said land lot line running northwest, southwest and northwest along the easterly property line of the Calumet Subdivision as set forth on that certain plat entitled Final Plat of Calumet, by Watts & Browning Engineers, dated January 16, 1991, revised January 23, 1991, recorded at Plat Book 171, page 14, Official Deed Records of Fulton County, Georgia, to the point where said easterly property line intersects the southerly right-of-way of Old McGinnis Ferry Road; thence running westerly along the right-of-way of said Old McGinnis Ferry Road to the westerly point of said Calumet Subdivision adjacent to said right-of-way; thence leaving said right-of-way running southerly and easterly along the north property line of said Calumet Subdivision to the point where said north property line intersect the southeast corner of that certain parcel of land (Fulton County tax id# 21572011240102, according to the parcel numbering system existing on January 1, 2006) described in that certain Warranty Deed, dated April, 1982, recorded in Deed Book 8114, page 202 Official Deed Records of Fulton County, Georgia; thence leaving said north property line of Calumet Subdivision running north along the east property line of said parcel of land (Fulton County tax id#

21572011240102) following the course thereof to a point on the line dividing Fulton County, Georgia and Forsyth County, Georgia; running thence southeasterly along said Fulton-Forsyth County line to the point where said line intersects the westerly county line of Gwinnett County and the Chattahoochee River, said point being the point of beginning. All references and points set out herein are as of January 1, 2006 unless otherwise stated.

APPENDIX B

If approved by the voters as described in Section 7.14 of this charter, the corporate limits of the City of Johns Creek shall include the following described territory of Fulton County except that the corporate limits of the City of Johns Creek shall not include any part of the following described territory which has been validly annexed to another city by an annexation completed before this Act is approved by the Governor or becomes law without such approval:

Commencing at the point where the line dividing Fulton County, Georgia and Gwinnett County, Georgia, as they existed on January 1, 2006, intersects the dividing line between Fulton County Voting Precincts NC11A and NC06, as they existed on January 1, 2006; thence leaving said Fulton-Gwinnett County line, running northwesterly along said dividing line between voting precincts to its intersection with Barnwell Road; thence following Barnwell Road northeasterly to the point where said right-of-way intersects with Jones Bridge Road; thence following Jones Bridge Road northerly to the point where said right-of-way intersects with Old Alabama Road; thence following the right-of-way of Old Alabama Road west to the point where said right-of-way intersects with the right-of-way of Brumbelow Road; thence following the right-of-way of Brumbelow Road south to the point where said right-of-way intersects with the south land lot line of Land Lot 924, 1st District, 2nd Section, Fulton County, Georgia, said point also being the southeastern corner of that certain parcel of land (Fulton County tax id# 12318008950488, according to the parcel numbering system existing on January 1, 2006) described in that certain Quit Claim Deed, dated May 5, 1997, recorded in Deed Book 22692, page 012, Official Deed Records of Fulton County, Georgia, said point further representing the southeasterly corner of Newtown Park; thence leaving said right-of-way running west along the south line of Land Lots 924 and 895, aforesaid District and Section, to a point at the intersection of Land Lots 894, 895, 869 and 870, aforesaid District and Section, said point also being the southwest corner of Newtown Park; thence running north along the west land lot line of Land Lot 895 to a point to its northernmost point adjacent to the eastern boundary of the Chartwell Subdivision, as set out on that certain plat entitled Final Subdivision Plat of Chartwell, Unit 1, Phase 1, by Travis Pruitt & Associates, Inc., recorded at Plat Book 188, page 49, Official Deed Records of Fulton County, Georgia; thence leaving said land lot line following the eastern boundary of the Chartwell Subdivision northwest to Old Alabama Road; thence running along the right-of-way of Old Alabama Road to its intersection with the northeast corner of the Old Alabama Square Shopping Center as set out on that certain

plat entitled Old Alabama Square, Exemption Plat, by Post, Buckley, Schuh & Jernigan, Inc., recorded at Plat Book 220, page 124, Official Deed Records of Fulton County, Georgia; thence leaving said right-of-way running south and southwest along the east line of said shopping center parcel (said line also being set out on the aforementioned plat of Chartwell Subdivision) to a point at the southeast corner of said shopping center parcel; thence running west along the south line of said shopping center parcel to a point at the centerline of a creek, the same being located at the southwest corner of said shopping center parcel, said point also being located on the east property line of that certain parcel of land (Fulton County tax id# 12304008391576, according to the parcel numbering system existing on January 1, 2006) said parcel being described in that certain General Warranty Deed, dated June 24, 1999, recorded in Deed Book 27358, page 340, Official Deed Records of Fulton County, Georgia; thence running southerly following the meanderings of said creek along the east line of said parcel of land (Fulton County tax id# 12304008391576) to its intersection with the south land lot line of Land Lot 840, aforesaid District and Section; thence leaving the centerline of said creek running west along the south line of land lots 840 and 817 to its intersection with the easterly boundary of City of Roswell, Georgia, as it existed on January 1, 2006, at the right-of-way of Nesbit Ferry Road; thence running south along Nesbit Ferry Road, and said eastern boundary of the City of Roswell, Georgia, to a point in Land Lot 832, aforesaid District and Section, where said eastern boundary of the City of Roswell, Georgia leaves the right-of-way of Nesbit Ferry Road; thence continuing south along the right-of-way of Nesbit Ferry Road to the point where said eastern boundary of the City of Roswell, Georgia re-intersects said right-of-way; thence continuing south along said right-of-way of Nesbit Ferry Road and the eastern boundary of the City of Roswell, Georgia to the intersection of Nesbit Ferry Road and Holcomb Bridge Road; thence continuing south along the eastern boundary of the City of Roswell, Georgia, along the right-of-way of Holcomb Bridge Road, to its intersection with the right-of-way of Barnwell Road; thence leaving the right-of-way of Holcomb Bridge Road and said east boundary of the City of Roswell, Georgia, running northeast along the right-of-way of Barnwell Road to its most northerly point of intersection with that certain parcel of land (Fulton County tax id# 12323008840127, according to the parcel numbering system existing on January 1, 2006) described in that certain Warranty Deed, dated July 26, 1984, recorded in Deed Book 9245, page 10, Official Deed Records of Fulton County, Georgia; thence leaving said right-of-way running east along the northerly property line of said parcel of land (Fulton County tax id# 12323008840127) to the northeast corner of said parcel of land, the same lying on said Fulton-Gwinnett County line; thence running northeasterly along said Fulton-Gwinnett County line, following the meanderings of the Chattahoochee River to a point where said Fulton-Gwinnett County line intersects the dividing line between Fulton County Voting Precincts NC11A and NC06, said point being the point of beginning. All references and points set out herein are as of January 1, 2006 unless otherwise stated.

APPENDIX C

CERTIFICATE AS TO MINIMUM STANDARDS
FOR INCORPORATION OF A NEW MUNICIPAL CORPORATION

I, Representative Mark Burkhalter, Georgia State Representative from the 50th District and the author of this bill introduced at the 2006 Session of the General Assembly of Georgia, which grants an original municipal charter to the City of Johns Creek do hereby certify that this bill is in compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A. This certificate is executed to conform to the requirements of Code Section 36-31-5 of the O.C.G.A.

So certified, this 1st day of March, 2006.

/s/ Mark Burkhalter
Representative, 50th District
Georgia House of Representatives

*HB 1351:

The Senate State and Local Governmental Operations Committee offered the following substitute to HB 1351:

A BILL TO BE ENTITLED
AN ACT

To provide a homestead exemption from Murray County school district ad valorem taxes for educational purposes in the amount of \$80,000.00 of the assessed value of the homestead for residents of that school district who are at least 70 years of age; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

(a) As used in this Act, the term:

(1) "Ad valorem taxes for educational purposes" means all ad valorem taxes for educational purposes levied by, for, or on behalf of the Murray County school district, including, but not limited to, ad valorem taxes to pay interest on and to retire county school district bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

- (3) "Senior citizen" means a person who is at least 70 years of age on or before January 1 of the year in which application for the exemption under this Act is made.
- (b) Each resident of the Murray County school district who is a senior citizen is granted an exemption on that person's homestead from all Murray County school district ad valorem taxes for educational purposes in the amount of \$80,000.00 of the assessed value of that homestead. The value of that property in excess of such exempted amount shall remain subject to taxation.
- (c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the tax commissioner of Murray County giving the person's age and such additional information relative to receiving such exemption as will enable the tax commissioner to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The tax commissioner shall provide application forms for this purpose.
- (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year as long as the owner occupies the residence as a homestead. After a person has filed the proper application as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year, and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under this Act to notify the tax commissioner of Murray County in the event that person for any reason becomes ineligible for that exemption.
- (e) The exemption granted by subsection (b) of this section shall not apply to or affect any state ad valorem taxes, county ad valorem taxes for county purposes, municipal ad valorem taxes for municipal purposes, or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in lieu of and not in addition to any other homestead exemption applicable to Murray County school district ad valorem taxes for educational purposes except that homestead exemption granted pursuant to an Act approved May 17, 2004 (Ga. L. 2004, p. 4535).
- (f) The exemption granted by this Act shall apply to all taxable years beginning on or after January 1, 2007.

SECTION 2.

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of Murray County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of the Murray County school district for approval or rejection. The election superintendent shall conduct that election on the date of the November, 2006, state-wide general election and shall issue the call and conduct that election as provided by general law. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Murray County. The ballot shall have written or printed thereon the words:

- "() YES Shall the Act be approved which provides a homestead exemption from Murray County school district ad valorem taxes for educational purposes
- () NO in the amount of \$80,000.00 of the assessed value of the homestead for residents of that school district who are at least 70 years of age?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, Section 1 of this Act shall become of full force and effect on January 1, 2007. If the Act is not so approved or if the election is not conducted as provided in this section, Section 1 of this Act shall not become effective and this Act shall be automatically repealed on the first day of January immediately following that election date. The expense of such election shall be borne by Murray County. It shall be the election superintendent's duty to certify the result thereof to the Secretary of State.

SECTION 3.

Except as otherwise provided in Section 2 of this Act, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.

On the adoption of the substitutes, the yeas were 45, nays 2, and the committee substitutes were adopted.

The report of the committee, which was favorable to the passage of the bills as reported, was agreed to.

On the passage of the bills on the Local Consent Calendar, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
E Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Me V Bremen	Y Thomas,D
N Chapman	Y Miles	Thomas,R
Y Douglas	Y Moody	E Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	E Tolleson

Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Zamarripa
Y Henson	Y Shafer,D	

On the passage of the local bills, the yeas were 45, nays 2.

The bills on the Local Consent Calendar, except HB 1321 and HB 1351, having received the requisite constitutional majority, were passed.

HB 1321 and HB 1351, having received the requisite constitutional majority, were passed by substitute.

Senator Moody of the 56th asked unanimous consent that HB 1321 be immediately transmitted to the House.

The consent was granted, and HB 1321 was immediately transmitted.

SENATE RULES CALENDAR
THURSDAY, MARCH 2, 2006
TWENTY-SIXTH LEGISLATIVE DAY

SB 520	Public Safety, Board of; authorize to provide badge/revolver to sworn officers; state patrol; change provisions (Amendment)(PS&HS-1st)
SB 532	United States Nuclear Regulatory Commission; enhance the protection of licensed facilities (Substitute)(PS&HS-24th)
HB 1032	Licenses to carry pistol or revolver; temporary renewal permit; provide for restrictions (PS&HS-46th) Lunsford-110th
SB 396	Crimes; person who is attacked has no duty to retreat; provide immunity from prosecution (Substitute)(JUDY-7th)
SB 77	Feticide; parental notification; define/eliminate terms; provide reports (Substitute)(H&HS-45th)
SB 123	Pharmacist; written objection; not required to prescribe drugs to induce abortion (Substitute)(H&HS-24th)

- SB 429 Abortions; access to certain medical equipment; perform certain medical procedures; penalty for violations (Substitute)(H&HS-50th)
- SB 415 HERO; provide surviving spouses shall be eligible students (Substitute) (H ED-17th)

Respectfully submitted,

/s/ Balfour of the 9th, Chairman
Senate Rules Committee

Senator Stephens of the 27th asked unanimous consent that Senator Hill of the 4th be excused. The consent was granted, and Senator Hill was excused.

Senator Goggans of the 7th asked unanimous consent that Senator Chapman of the 3rd be excused. The consent was granted, and Senator Chapman was excused.

Senator Whitehead of the 24th asked unanimous consent that Senator Harp of the 29th be excused. The consent was granted, and Senator Harp was excused.

The following legislation was read the third time and put upon its passage:

- SB 520. By Senators Johnson of the 1st, Kemp of the 46th, Douglas of the 17th and Hill of the 32nd:

A BILL to be entitled an Act to amend Article 2 of Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia State Patrol, so as to authorize the Board of Public Safety to provide a badge and revolver to sworn officers as compensation under certain circumstances; to authorize the commissioner to provide certain uniforms and equipment to all sworn members of the Department of Public Safety; to change certain provisions relating to the provision of uniforms and equipment to members of the Uniform Division and the retention of weapons and badges upon retirement of certain members; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Senate Public Safety and Homeland Security Committee offered the following amendment:

Amend SB 520 by striking from line 3 of page 1 "revolver" and inserting in lieu thereof "duty weapon"

By striking line 18 of page 1 and inserting in lieu thereof the following:

~~revolver~~ duty weapon issued by the department to such member officer,
~~noncommissioned officer, or~~

On the adoption of the amendment, the yeas were 35, nays 0, and the committee amendment was adopted.

The report of the committee, which was favorable to the passage of the bill as amended, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
E Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
E Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
E Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 50, nays 0.

SB 520, having received the requisite constitutional majority, was passed as amended.

SB 532. By Senators Whitehead, Sr. of the 24th, Williams of the 19th, Goggans of the 7th, Seabaugh of the 28th, Rogers of the 21st and others:

A BILL to be entitled an Act to amend provisions of the O.C.G.A. so as to enhance the protection of facilities licensed by the United States Nuclear Regulatory Commission; to provide for related matters; to provide for an

effective date and applicability; to repeal conflicting laws; and for other purposes.

The Senate Public Safety and Homeland Security Committee offered the following substitute to SB 532:

A BILL TO BE ENTITLED
AN ACT

To amend provisions of the Official Code of Georgia Annotated so as to enhance the protection of nuclear power facilities licensed by the United States Nuclear Regulatory Commission; to amend Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public order and safety, so as to authorize the use of certain weapons by nuclear security personnel or contract nuclear security personnel operating pursuant to a nuclear security plan approved by the United States Nuclear Regulatory Commission or other authorized federal agency; to prohibit the possession or use of certain weapons on a federally licensed nuclear plant site; to amend Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to arrest of persons, so as to empower such nuclear security personnel to detain and use reasonable force against persons reasonably believed to present a danger to the nuclear plant site; to amend Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Bureau of Investigation, so as to expedite the processing and background checks of persons seeking employment in the field of nuclear security; to amend Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general provisions regarding torts, so as to provide an affirmative defense for such security personnel executing an approved nuclear security plan; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public order and safety, is amended by striking "and" at the end of paragraph (3), substituting "; and" for the period at the end of paragraph (4), and inserting a new paragraph (5) in Code Section 16-11-124, relating to exemptions from the prohibition of the possession of certain dangerous firearms and weapons, to read as follows:

"(5) A security officer employed by a federally licensed nuclear power facility or a licensee of such facility, including a contract security officer, who is trained and qualified under a security plan approved by the United States Nuclear Regulatory Commission or other federal agency authorized to regulate nuclear facility security; provided, however, that this exemption shall apply only while such security officer is acting in connection with his or her official duties on the premises of such nuclear power facility or on properties outside the facility property pursuant to a written

agreement entered into with the local law enforcement agency having jurisdiction over the facility."

SECTION 2.

Said chapter is further amended by inserting a new Code Section 16-11-127.2, immediately following Code Section 16-11-127.1, relating to carrying weapons within school safety zones, to read as follows:

"16-11-127.2.

(a) Except as provided in subsection (c) of this Code section, it shall be unlawful for any person to carry, possess, or have under such person's control while on the premises of a nuclear power facility a firearm or weapon. Any person who violates this subsection shall be guilty of a misdemeanor.

(b) Any person who violates subsection (a) of this Code section with the intent to do bodily harm on the premises of a nuclear power facility shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not more than \$10,000, by imprisonment for not less than two nor more than 20 years, or both.

(c) This Code section shall not apply to a security officer authorized to carry dangerous weapons pursuant to Code Section 16-11-124 who is acting in connection with his or her official duties on the premises of a federally licensed nuclear power facility; nor shall this Code section apply to persons designated in paragraph (3), (4), (5), or (9) of subsection (c) of Code Section 16-11-127.1."

SECTION 3.

Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to arrest of persons, is amended by inserting a new subsection (f) in Code Section 17-4-20, relating to the authorization of arrests with and without warrants, and use of deadly force, to read as follows:

"(f) A nuclear power facility security officer, including a contract security officer, employed by a federally licensed nuclear power facility or licensee thereof for the purpose of securing that facility shall have the authority to:

(1) Threaten or use force against another in defense of a federally licensed nuclear power facility and the persons therein as provided for under Code Sections 16-3-21 and 16-3-23;

(2) Search any person on the premises of the nuclear power facility or the properties adjacent to the facility pursuant to a written agreement entered into with the local enforcement agency having jurisdiction over the facility for the purpose of determining if such person possesses unauthorized weapons, explosives, or other similarly prohibited material; provided, however, that if such person objects to any search, he or she shall be detained as provided in paragraph (3) of this subsection or shall be required to immediately vacate the premises. Any person refusing to submit to a search and refusing to vacate the premises of a facility upon the request of a security officer as provided for in this Code section shall be guilty of a misdemeanor; and

(3) In accordance with a nuclear security plan approved by the United States Nuclear Regulatory Commission or other federal agency authorized to regulate nuclear facility security, detain any person located on the premises of a nuclear power facility or on the properties adjacent thereto pursuant to a written agreement entered into with the local law enforcement agency having jurisdiction over the facility, where there is reasonable suspicion to believe that such person poses a threat to the security of the nuclear power facility, regardless of whether such prohibited act occurred in the officer's presence. In the event of such detention, the law enforcement agency having jurisdiction over the facility shall be immediately contacted. The detention shall not exceed the amount of time reasonably necessary to allow for law enforcement officers to arrive at the facility."

SECTION 4.

Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Bureau of Investigation, is amended by inserting a new subsection (d.4) in Code Section 35-3-34, relating to the disclosure and dissemination of criminal records to private persons and businesses, to read as follows:

"(d.4) The center shall place a high priority on inquiries from any nuclear power facility requesting a criminal history and shall respond to such requests as expeditiously as possible, but in no event shall a response be made more than two business days following receipt of the request."

SECTION 5.

Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general provisions regarding torts, is amended by inserting a new Code Section 51-1-30.4 to read as follows:

"51-1-30.4.

Notwithstanding any other provision of law, an authorized security officer as provided for in Code Section 16-11-124 acting within the scope of his or her official duties on the premises of a federally licensed nuclear power facility or the properties adjacent to the facility pursuant to a written agreement entered into with the local law enforcement agency having jurisdiction over the facility shall be entitled to immunity as provided in Code Section 51-11-9. Such officer and the officer's employer or the owner, operator, or licensee of the facility where the officer is providing security services shall also be immune from liability for the officer's good faith performance of his or her duties at such facility in accordance with a nuclear security plan approved by the United States Nuclear Regulatory Commission or other authorized federal agency."

SECTION 6.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval; provided, however, that Section 5 of this Act shall apply only with respect to causes of action arising on or after the effective date of this Act.

SECTION 7.

All laws and parts of laws in conflict with this Act are repealed.

On the adoption of the substitute, the yeas were 37, nays 0, and the committee substitute was adopted.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
E Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
E Chapman	Y Miles	Thomas,R
Y Douglas	Y Moody	Y Thompson,C
N Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Grant	Y Reed	Weber
Y Hamrick	Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Henson	Y Shafer,D	

On the passage of the bill, the yeas were 46, nays 1.

SB 532, having received the requisite constitutional majority, was passed by substitute.

Senators Adelman of the 42nd and Miles of the 43rd introduced the doctor of the day Dr. Gulshan S. Harjee.

The Calendar was resumed.

HB 1032. By Representatives Lunsford of the 110th, Ralston of the 7th, Forster of the 3rd, England of the 108th, Ehrhart of the 36th and others:

A BILL to be entitled an Act to amend Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to license to carry a pistol or revolver and temporary renewal permit, so as to provide for certain restrictions on the issuance of such permit; to provide for a background check for permit renewals; to provide for a check of United States Immigration and Customs Enforcement records for noncitizen applicants; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Seabaugh of the 28th.

Senators Rogers of the 21st and Wiles of the 37th offered the following amendment:

Amend HB 1032 by adding between lines 15 & 16 of page 3

“(6) Any person not lawfully present in the United States”

On the adoption of the amendment, the yeas were 41, nays 0, and the Rogers, Wiles amendment was adopted.

The report of the committee, which was favorable to the passage of the bill, was agreed to as amended.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
E Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
E Chapman	Y Miles	N Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles

Y Harp
Y Heath
Y Henson

Y Seabaugh
Y Seay
Y Shafer,D

Y Williams
Y Zamarripa

On the passage of the bill, the yeas were 51, nays 1.

HB 1032, having received the requisite constitutional majority, was passed as amended.

SB 396. By Senators Goggans of the 7th, Johnson of the 1st, Williams of the 19th, Whitehead, Sr. of the 24th, Unterman of the 45th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to justification and excuse as a defense to certain crimes, so as to provide that a person who is attacked has no duty to retreat; to provide that such person has a right to meet force with force, including deadly force; to provide for an immunity from prosecution; to repeal conflicting laws; and for other purposes.

The Senate Judiciary Committee offered the following substitute to SB 396:

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to justification and excuse as a defense to certain crimes, so as to provide that a person who is attacked has no duty to retreat; to provide that such person has a right to meet force with force, including deadly force; to provide for civil immunity; to amend Article 1 of Chapter 11 of Title 51 of the Official Code of Georgia Annotated, relating to general provisions relative to defense to tort actions, so as to provide for civil immunity; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to justification and excuse as a defense to certain crimes, is amended by inserting immediately following Code Section 16-3-23 a new Code section to read as follows:

"16-3-23.1.

A person who uses threats or force in accordance with Code Section 16-3-21, relating to the use of force in defense of self or others, Code Section 16-3-23, relating to the use of force in defense of a habitation, or Code Section 16-3-24, relating to the use of force in defense of property other than a habitation, has no duty to retreat and has the right to

stand his or her ground and use force as provided in said Code sections, including deadly force."

SECTION 2.

Said article is further amended by striking in its entirety Code Section 16-3-24.2, relating to immunity from prosecution and exception, and inserting in lieu thereof the following:

"16-3-24.2.

A person who uses threats or force in accordance with Code Section 16-3-21, 16-3-23, 16-3-23.1, or 16-3-24 shall be immune from criminal prosecution therefor unless ~~any deadly force used by~~ in the use of deadly force, such person utilizes a weapon the carrying or possession of which is unlawful by such person under Part 2 or 3 of Article 4 of Chapter 11 of this title."

SECTION 3.

Article 1 of Chapter 11 of Title 51 of the Official Code of Georgia Annotated, relating to general provisions relative to defense to tort actions, is amended by striking in its entirety Code Section 51-11-9, relating to immunity from civil liability for threat or use of force in defense of a habitation, and inserting in lieu thereof the following:

"51-11-9.

A person who is justified in threatening or using force against another under the provisions of Code Section 16-3-21, relating to the use of force in defense of self or others, Code Section 16-3-23, relating to the use of force in defense of a habitation, or Code Section 16-3-24, relating to the use of force in defense of property other than a habitation, has no duty to retreat from the use of such force and shall not be held liable to the person against whom the use of force was justified or to any person acting as an accomplice or assistant to such person in any civil action brought as a result of the threat or use of such force."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.

On the adoption of the substitute, the yeas were 35, nays 7, and the committee substitute was adopted.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
E Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	Y Stoner

Y Cagle	N Jones	N Tarver
Y Carter	Y Kemp	N Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	N Miles	N Thomas,R
Y Douglas	Y Moody	Y Thompson,C
N Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the passage of the bill, the yeas were 40, nays 13.

SB 396, having received the requisite constitutional majority, was passed by substitute.

The following communication was received by the Secretary:

Senator David Adelman
District 42
303-A Coverdell Legislative Office Building
Atlanta, GA 30334

Committees:
Special Judiciary
Health and Human Services
Judiciary
Rules

The State Senate
Atlanta, Georgia 30334

I had a voting equipment malfunction. My vote on SB 396 should be "no."

/s/ David Adelman
District 42

At 11:15 a.m. the President announced that the Senate would stand in recess until 1:15 p.m.

At 1:15 p.m. the President called the Senate to order.

The Calendar was resumed.

SB 77. By Senators Unterman of the 45th, Hudgens of the 47th, Schaefer of the 50th, Goggans of the 7th, Shafer of the 48th and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 11 of Title 15 of the O.C.G.A., relating to parental notification, so as to define and eliminate certain terms; to require certain types of identification to be presented in order for a physician to perform an abortion; to amend Chapter 12 of Title 16 of the O.C.G.A., relating to offenses against health and morals, so as to provide that all abortions must be performed in certain facilities; to provide for certain reports by physicians; to provide for certain forms; to provide for certain reports by the Department of Human Resources; to provide for a short title; to provide for definitions; to require that a female give her informed consent prior to an abortion; to provide for related matters; to provide for severability; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The Senate Health and Human Services Committee offered the following substitute to SB 77:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against the person, so as to revise the definition of feticide; to prohibit the voluntary manslaughter of an unborn child; to prohibit assaults and batteries of unborn children under certain circumstances; to provide for punishment for persons convicted of such offenses; to amend Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to serious traffic offenses, so as to remove the requirement that an unborn child be quick in the definition of feticide by vehicle; to amend Article 1 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to general provisions concerning registration, operation, and sale of watercraft, so as to remove the requirement that an unborn child be quick in the definition of feticide by vessel; to provide for definitions; to provide for exceptions; to provide for applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against the person, is amended by adding at the end of Article 2, relating to assault and battery, new Code Sections 16-5-28 and 16-5-29 to read as follows:

"16-5-28.

(a) For the purposes of this Code section, the term 'unborn child' means a member of the species homo sapiens at any stage of development who is carried in the womb.

(b) A person commits the offense of assault of an unborn child when such person,

without legal justification, attempts to inflict violent injury to an unborn child who is subsequently born alive.

(c) Any person convicted of the offense of assault of an unborn child shall be guilty of a misdemeanor.

(d) The provisions of this Code section shall not apply to acts committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment.

16-5-29.

(a) For the purposes of this Code section, the term 'unborn child' means a member of the species homo sapiens at any stage of development who is carried in the womb.

(b) A person commits the offense of battery of an unborn child when such person, without legal justification, intentionally inflicts physical harm upon an unborn child who is subsequently born alive.

(c) A person convicted of the offense of battery of an unborn child shall be guilty of a misdemeanor.

(d) The provisions of this Code section shall not apply to acts committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment."

SECTION 2.

Said chapter is further amended by striking Code Section 16-5-80, relating to feticide, and inserting in lieu thereof a new Code Section 16-5-80 to read as follows:

"16-5-80.

(a) For the purposes of this Code section, the term 'unborn child' means a member of the species homo sapiens at any stage of development who is carried in the womb.

~~(a)(b)~~ A person commits the offense of feticide if he or she willfully kills and without legal justification causes the death of an unborn child so far developed as to be ordinarily called 'quick' by any injury to the mother of such child, which would be murder if it resulted in the death of such mother, or if he or she, when in the commission of a felony, causes the death of an unborn child.

~~(b)~~ (c) A person convicted of the offense of feticide shall be punished by imprisonment for life.

(d) A person commits the offense of voluntary manslaughter of an unborn child when such person causes the death of an unborn child under circumstances which would otherwise be feticide and if such person acts solely as the result of a sudden, violent, and irresistible passion resulting from serious provocation sufficient to excite such passion in a reasonable person; provided, however, that, if there should have been an interval between the provocation and the killing sufficient for the voice of reason and humanity to be heard, of which the jury in all cases shall be the judge, the killing shall be attributed to deliberate revenge and be punished as feticide.

(e) A person convicted of the offense of voluntary manslaughter of an unborn child shall be guilty of a felony and shall be punished by imprisonment for not less than one

nor more than 20 years.

(f) This Code section shall not apply to:

(1) Acts which cause the death of an unborn child if those acts were committed during a legal abortion to which the pregnant woman consented; and

(2) Acts committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment."

SECTION 3.

Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to serious traffic offenses, is amended by striking Code Section 40-6-393.1, relating to feticide by vehicle, and inserting in lieu thereof a new Code Section 40-6-393.1 to read as follows:

"40-6-393.1.

(a) For the purposes of this Code section, the term 'unborn child' means a member of the species homo sapiens at any stage of development who is carried in the womb.

~~(a)(b)~~(1) A person commits the offense of feticide by vehicle in the first degree if he or she causes the death of an unborn child ~~so far developed as to be ordinarily called 'quick'~~ by any injury to the mother of such child through the violation of Code Section 40-6-390 or 40-6-391, which would be homicide by vehicle in the first degree as provided in subsection (a) or (c) of Code Section 40-6-393 if it resulted in the death of such mother.

(2) A person convicted of the offense of feticide by vehicle in the first degree shall be punished by imprisonment for not less than two years nor more than 15 years.

~~(b)(c)~~(1) A person commits the offense of feticide by vehicle in the second degree if he or she causes the death of an unborn child ~~so far developed as to be ordinarily called 'quick'~~ by any injury to the mother of such child by violating any provision of this title other than Code Section 40-6-390 or 40-6-391, which would be homicide by vehicle in the second degree as provided in subsection (b) of Code Section 40-6-393 if it resulted in the death of such mother.

(2) A person convicted of the offense of feticide by vehicle in the second degree shall be punished as provided in Code Section 17-10-3."

SECTION 4.

Article 1 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to general provisions concerning registration, operation, and sale of watercraft, is amended by striking Code Section 52-7-12.3, relating to feticide by vessel, and inserting in lieu thereof a new Code Section 52-7-12.3 to read as follows:

"52-7-12.3.

(a) For the purposes of this Code section, the term 'unborn child' means a member of the species homo sapiens at any stage of development who is carried in the womb.

~~(a)(b)~~(1) A person commits the offense of feticide by vessel in the first degree if he or she causes the death of an unborn child ~~so far developed as to be ordinarily called~~

'quick' by any injury to the mother of such child through the violation of subsection (j) of Code Section 52-7-8.2 or Code Section 52-7-12 or Code Section 52-7-12.1 or subsection (b) of Code Section 52-7-13 or subsection (a) of Code Section 52-7-14 or subsection (c) of Code Section 52-7-25, which would be homicide by vessel in the first degree as provided in subsection (a) of Code Section 52-7-12.2 if it resulted in the death of such mother.

(2) A person convicted of the offense of feticide by vessel in the first degree shall be guilty of a felony and shall be punished by imprisonment for not less than two years nor more than 15 years.

~~(b)(c)~~(1) A person commits the offense of feticide by vessel in the second degree if he or she causes the death of an unborn child ~~so far developed as to be ordinarily called 'quick'~~ by any injury to the mother of such child by violating any provision of this title other than subsection (j) of Code Section 52-7-8.2 or Code Section 52-7-12 or Code Section 52-7-12.1 or subsection (b) of Code Section 52-7-13 or subsection (a) of Code Section 52-7-14 or subsection (c) of Code Section 52-7-25, which would be homicide by vessel in the second degree as provided in subsection (b) of Code Section 52-7-12.2 if it resulted in the death of such mother.

(2) A person convicted of the offense of feticide by vessel in the second degree shall be guilty of a misdemeanor and shall be punished as provided in Code Section 17-10-3."

SECTION 5.

This Act shall become effective on July 1, 2006, and shall apply to all offenses committed on or after such date.

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.

Senator Henson of the 41st offered the following amendment #1:

Amend the Senate Health and Human Services Committee substitute to SB 77 (LC 21 8827S) by striking lines 16 through 25 on page 1 and lines 1 through 3 on page 2 and inserting in lieu thereof the following:

the person, is amended by striking Code Section 16-5-20, relating to simple assault, and inserting in lieu thereof a new Code Section 16-5-20 and by adding at the end of Article 2, relating to assault and battery, a new Code Section 16-5-29 to read as follows:

"16-5-20.

(a) A person commits the offense of simple assault when he or she either:

(1) Attempts to commit a violent injury to the person of another; or

(2) Commits an act which places another in reasonable apprehension of immediately receiving a violent injury.

(b) Except as provided in subsections (c) through ~~(f)~~ (h) of this Code section, a person who commits the offense of simple assault shall be guilty of a misdemeanor.

(c) Any person who commits the offense of simple assault in a public transit vehicle or

station shall, upon conviction thereof, be punished for a misdemeanor of a high and aggravated nature. For purposes of this Code section, 'public transit vehicle' means a bus, van, or rail car used for the transportation of passengers within a system which receives a subsidy from tax revenues or is operated under a franchise contract with a county or municipality of this state.

(d) If the offense of simple assault is committed between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons excluding siblings living or formerly living in the same household, the defendant shall be punished for a misdemeanor of a high and aggravated nature. In no event shall this subsection be applicable to corporal punishment administered by a parent or guardian to a child or administered by a person acting in loco parentis.

(e) Any person who commits the offense of simple assault against a person who is 65 years of age or older shall, upon conviction thereof, be punished for a misdemeanor of a high and aggravated nature.

(f) Any person who commits the offense of simple assault against an employee of a public school system of this state while such employee is engaged in official duties or on school property shall, upon conviction of such offense, be punished for a misdemeanor of a high and aggravated nature. For purposes of this Code section, 'school property' shall include public school buses and stops for public school buses as designated by local school boards of education.

(g) Any person who commits the offense of simple assault against a female who is pregnant at the time of the offense shall, upon conviction thereof, be punished for a misdemeanor of a high and aggravated nature.

(h) Nothing in this Code section shall be construed to permit the prosecution of:

(1) Any person for conduct relating to an abortion for which the consent of the pregnant woman, or person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

(2) Any person for any medical treatment of the pregnant woman or her unborn child;
or

(3) Any woman with respect to her unborn child."

Senator Smith of the 52nd offered the following amendment #1a:

Amend Amendment #1 to the committee substitute (LC 21 8827S) to SB 77 by striking lines 3-5 of page 1 following the word "by" on line 3

and by striking the words "in lieu thereof" on page 1, line 6

and by striking lines 11-12 of page 2.

Senator Smith of the 52nd asked unanimous consent that his amendment #1a be withdrawn. The consent was granted, and the amendment was withdrawn.

Senator Smith of the 52nd offered the following amendment #1b:

Amend Amendment #1 to the committee substitute (LC 21 8827S) to SB 77 by striking lines 3-5 of page 1 following the word "by" on line 3

and by striking the words "in lieu thereof" on page 1, line 6

On the adoption of the amendment, the yeas were 33, nays 14, and the Smith amendment #1b was adopted.

On the adoption of the amendment, the yeas were 48, nays 0, and the Henson amendment #1 was adopted as amended.

Senator Butler of the 55th offered the following amendment #2:

Amend the Senate Health and Human Services Committee substitute to SB 77 (LC 21 8827S) by inserting after "the person, is" on line 16 on page 1 the following:

amended by striking subsection (b) of Code Section 16-5-21, relating to aggravated assault, and inserting in lieu thereof new subsections (b), (j), and (k) to read as follows:

"(b) Except as provided in subsections (c) through ~~(i)~~ (k) of this Code section, a person convicted of the offense of aggravated assault shall be punished by imprisonment for not less than one nor more than 20 years."

"(j) Any person who commits the offense of aggravated assault against a female who is pregnant at the time of the offense shall, upon conviction thereof, be punished by imprisonment for not less than three nor more than 20 years."

(k) Nothing in this Code section shall be construed to permit the prosecution of:

(1) Any person for conduct relating to an abortion for which the consent of the pregnant woman, or person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

(2) Any person for any medical treatment of the pregnant woman or her unborn child;
or

(3) Any woman with respect to her unborn child."

SECTION 1A.

Said chapter is further

Senator Butler of the 55th offered the following amendment #2a to amendment #2 (AM 28 0678):

Amend SB 77 (LC 21 8827S) by adding following line 20 of page 1:

Further amend by striking lines 4 through 14 of page 2 of the Senate Health & Human Services committee substitute to SB 77.

On the adoption of the amendment, the yeas were 6, nays 36, and the Butler amendment #2a was lost.

Senator Smith of the 52nd offered the following amendment #2b:

Amend Amendment #2 (AM 28 0678) to the committee substitute (LC 21 8827S) to SB 77 by striking lines 3 - 8 and inserting the following in lieu thereof

“and inserting the following after line 14 on page 2”

and renumbering or re-lettering accordingly

and by striking lines 19 and 20 of page 1.

On the adoption of the amendment, the yeas were 37, nays 11, and the Smith amendment #2b was adopted.

Senator Butler of the 55th asked unanimous consent that her amendment #2 be withdrawn. The consent was granted, and the amendment was withdrawn.

Due to the withdrawal of the Butler amendment #2, the amendment #2b offered by Senator Smith of the 52nd to the Butler amendment #2 was moot.

Senator Tate of the 38th offered the following amendment #3:

Amend the Senate Health and Human Services Committee substitute to SB 77 (LC 21 8827S) by inserting after "the person, is" on line 16 on page 1 the following:

amended by striking Code Section 16-5-2, relating to voluntary manslaughter, and inserting in lieu thereof a new Code Section 16-5-2 to read as follows:

"16-5-2.

(a) A person commits the offense of voluntary manslaughter when he causes the death of another human being under circumstances which would otherwise be murder and if he acts solely as the result of a sudden, violent, and irresistible passion resulting from serious provocation sufficient to excite such passion in a reasonable person; however, if there should have been an interval between the provocation and the killing sufficient for the voice of reason and humanity to be heard, of which the jury in all cases shall be the judge, the killing shall be attributed to deliberate revenge and be punished as murder.

(b) A person who commits the offense of voluntary manslaughter, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than 20 years.

(c) A person who commits the offense of voluntary manslaughter against a female who is pregnant at the time of the offense shall, upon conviction, be punished by imprisonment for not less than ten nor more than 20 years.

(d) Nothing in this Code section shall be construed to permit the prosecution of:

(1) Any person for conduct relating to an abortion for which the consent of the pregnant woman, or person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

(2) Any person for any medical treatment of the pregnant woman or her unborn child;
or

(3) Any woman with respect to her unborn child."

SECTION 1A.

Said chapter is further

By striking lines 15 through 35 on page 2 and lines 1 through 8 on page 3 and redesignating Sections 3 through 6 as Sections 2 through 5, respectively.

Senator Tate of the 38th offered the following amendment #3a to amendment #3:

Amend the committee substitute to SB 77 by striking on line 16 of page 1 the following:
“(d)”.

Senator Tate of the 38th asked unanimous consent that her amendment #3a be withdrawn. The consent was granted, and the amendment was withdrawn.

Senator Smith of the 52nd offered the following amendment #3b:

Amend Amendment #3 (AM 28 0681) to the committee substitute (LC 21 8827S) to SB 77:

by striking on page 1 lines 3 - 15 and inserting in lieu thereof the following:

“by inserting on page 2 after line 19 the following”

and by striking page 1, lines 26 - 29

and by renumbering and re-lettering accordingly.

On the adoption of the amendment, the yeas were 38, nays 8, and the Smith amendment #3b was adopted.

Senator Tate of the 38th asked unanimous consent that her amendment #3 be withdrawn. The consent was granted, and the amendment was withdrawn.

Due to the withdrawal of the Tate amendment #3, the amendment #3b offered by Senator Smith of the 52nd to the Tate amendment #3 was moot.

Senator Seay of the 34th offered the following amendment #4:

Amend the Senate Health and Human Services Committee substitute to SB 77 (LC 21 8827S) by striking lines 16 through 25 on page 1 and lines 1 through 3 on page 2 and inserting in lieu thereof the following:

the person, is amended by striking subsection (b) of Code Section 16-5-20, relating to simple assault, and inserting in lieu thereof new subsections (b), (g), and (h) and by adding at the end of Article 2, relating to assault and battery, a new Code Section 16-5-29 to read as follows:

"(b) Except as provided in subsections (c) through ~~(f)~~ (h) of this Code section, a person who commits the offense of simple assault shall be guilty of a misdemeanor."

"(g) Any person who commits the offense of simple assault against a female who is pregnant at the time of the offense shall, upon conviction thereof, be punished for a misdemeanor of a high and aggravated nature.

(h) Nothing in this Code section shall be construed to permit the prosecution of:

(1) Any person for conduct relating to an abortion for which the consent of the pregnant woman, or person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

(2) Any person for any medical treatment of the pregnant woman or her unborn child;
or

(3) Any woman with respect to her unborn child."

Senator Smith of the 52nd offered the following amendment #4a:

Amend Amendment #4 (AM 28 0679) to the committee substitute (LC 21 8827S) to SB 77 by striking page 1, lines 3-10 and by inserting in lieu thereof the following:

"by inserting on page 2 after line 14 the following"

and by renumbering and re-lettering accordingly.

On the adoption of the amendment, the yeas were 33, nays 12, and the Smith amendment #4a was adopted.

Senator Seay of the 34th offered the following amendment #4b to amendment #4:

Amend the committee substitute to SB 77 by striking on line 14 of page 1 the following:

"(h)"

On the adoption of the amendment, the yeas were 7, nays 37, and the Seay amendment #4b was lost.

Senator Seay of the 34th asked unanimous consent that her amendment #4 be withdrawn. The consent was granted, and the amendment was withdrawn.

Due to the withdrawal of the Seay amendment #4, the amendment #4a offered by Senator Smith of the 52nd to the Seay amendment #4 was moot.

Senator Smith of the 52nd offered the following amendment #5:

Amend the committee substitute (LC 21 8827S) to SB 77 by striking on page 3, line 2 the word “one” and insert in lieu thereof the word “ten”.

Senator Smith of the 52nd asked unanimous consent that his amendment #5 be withdrawn. The consent was granted, and the amendment was withdrawn.

On the adoption of the substitute, the yeas were 37, nays 9, and the committee substitute was adopted as amended.

Senator Seay of the 34th asked unanimous consent that Senator Reed of the 35th be excused. The consent was granted, and Senator Reed was excused.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to as amended.

On the passage of the bill, a roll call was taken, and the vote was as follows:

N Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
N Brown	Y Hooks	Y Staton
E Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	N Jones	N Tarver
Y Carter	Y Kemp	N Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	N Miles	N Thomas,R
Y Douglas	Y Moody	N Thompson,C
N Fort	Y Mullis	Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	E Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead

N Harbison
Y Harp
Y Heath
N Henson

Y Schaefer
Y Seabaugh
N Seay
Y Shafer,D

Y Wiles
Y Williams
N Zamarripa

On the passage of the bill, the yeas were 37, nays 15.

SB 77, having received the requisite constitutional majority, was passed by substitute.

The following communication was received by the Secretary:

Senator Steve Thompson
District 33
121-F State Capitol
Atlanta, GA 30334

Committees:
Appropriations
Banking and Financial Institutions
Finance
Transportation

The State Senate
Atlanta, Georgia 30334

The Honorable Bob Ewing
Secretary of the Senate
State Capitol
Atlanta, Georgia 30334

Dear Mr. Secretary:

Please place a note in the Journal concerning Final Passage of SB 77. Please reflect that while I was very active in the amendments process, I missed the vote on the final passage due to a meeting with the Domestic Violence Coalition.

Please let the record reflect that the Senator from the 33rd would have voted in the affirmative.

Sincerely,

/s/ Steve Thompson

Senator Shafer of the 48th asked unanimous consent that Senator Weber of the 40th be excused. The consent was granted, and Senator Weber was excused.

SB 123. By Senators Whitehead, Sr. of the 24th, Johnson of the 1st and Cagle of the 49th:

A BILL to be entitled an Act to amend Code Section 16-12-142 of the Official Code of Georgia Annotated, relating to requiring medical facilities or physicians to perform abortions and requiring others to assist, so as to provide that a pharmacist who states in writing an objection to any abortion shall not be required to fill a prescription for an emergency contraceptive drug which purpose is to induce and effect an abortion; to provide that such refusal shall not be the basis for any claim for damages; to provide for the duration of the effectiveness of the written objection; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Senate Health and Human Services Committee offered the following substitute to SB 123:

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 16-12-142 of the Official Code of Georgia Annotated, relating to requiring medical facilities or physicians to perform abortions and requiring others to assist, so as to provide that a pharmacist who states in writing an objection to any abortion shall not be required to fill a prescription for a drug if the purpose of the drug is to terminate a pregnancy; to provide that such refusal shall not be the basis for any claim for damages; to provide for the duration of the effectiveness of the written objection; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 16-12-142 of the Official Code of Georgia Annotated, relating to requiring medical facilities or physicians to perform abortions and requiring others to assist, is amended by striking such Code section and inserting in its place the following:

"16-12-142.

(a) Nothing in this article shall require a hospital or other medical facility or physician to admit any patient under the provisions of this article for the purpose of performing an abortion. In addition, any person who states in writing an objection to any abortion or all abortions on moral or religious grounds shall not be required to participate in procedures which will result in such abortion; and the refusal of the person to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against the person. The written objection shall remain in effect until the person revokes it or terminates his association with the facility with which it is filed.

(b) Any pharmacist who states in writing an objection to any abortion or all abortions

on moral or religious grounds shall not be required to fill a prescription for a drug which purpose is to terminate a pregnancy; and the refusal of the person to fill such prescription shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against the person; provided, however, that the pharmacist shall make all reasonable efforts to locate another pharmacist who is willing to fill such prescription or shall immediately return the prescription to the prescription holder. The written objection shall remain in effect until the person revokes it or terminates his or her association with the facility with which it is filed."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.

Senators Miles of the 43rd, Butler of the 55th, Tate of the 38th, Seay of the 34th and Thomas of the 2nd offered the following amendment #1:

Amend the substitute (LC 33 1371S) to SB 123 by adding on page 1 line 25 after pregnancy "or induce or effect penile erections with such sexually enhancing drugs such as Viagra or other similar prescriptions."

On the adoption of the amendment, Senator Miles of the 43rd, called for the yeas and nays; the call was sustained, and the vote was as follows:

N Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	Y Starr
Y Brown	N Hooks	N Staton
E Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	Y Tarver
N Carter	N Kemp	Y Tate
N Chance	N Me V Bremen	N Thomas,D
Y Chapman	Y Miles	Y Thomas,R
N Douglas	Y Moody	Y Thompson,C
Y Fort	N Mullis	Y Thompson,S
Y Goggans	N Pearson	N Tolleson
Y Golden	N Powell	Y Unterman
N Grant	E Reed	E Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 21, nays 31, and the Miles et al. amendment was lost.

On the adoption of the substitute, the yeas were 40, nays 4, and the committee substitute was adopted.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

N Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Brown	Y Hooks	Y Staton
E Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	N Jones	N Tarver
Y Carter	Y Kemp	N Tate
Y Chance	N Me V Bremen	Y Thomas,D
Y Chapman	N Miles	N Thomas,R
Y Douglas	Y Moody	N Thompson,C
N Fort	Y Mullis	Y Thompson,S
Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	E Reed	E Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the passage of the bill, the yeas were 35, nays 15.

SB 123, having received the requisite constitutional majority, was passed by substitute.

The following communication was received by the Secretary:

Senator Greg Goggans
District 7
324-B Coverdell Legislative Office Building
Atlanta, GA 30334

Committees:
Agriculture and Consumer Affairs
Appropriations
Finance
Health and Human Services
Transportation

The State Senate
Atlanta, Georgia 30334

To whom it may concern,

I was distracted with business and did not get to my voting machine in time to vote yes on SB 123.

/s/ Greg Goggans

SB 429. By Senators Schaefer of the 50th, Williams of the 19th, Balfour of the 9th, Rogers of the 21st, Smith of the 52nd and others:

A BILL to be entitled an Act to amend Article 5 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to abortion, so as to require facilities where abortions are performed and facilities of physicians who refer for abortions to have or have access to certain medical equipment; to require such facilities to perform certain procedures prior to performing an abortion; to provide for certain forms; to provide a penalty for violations; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Senate Health and Human Services Committee offered the following substitute to SB 429:

A BILL TO BE ENTITLED
AN ACT

To amend Article 5 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to abortion, so as to require facilities where abortions are performed to have or have access to certain medical equipment; to require such facilities to perform certain procedures prior to performing an abortion; to provide for certain forms; to provide a penalty for violations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 5 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to abortion, is amended by adding a new Code Section 16-12-141.2 to read as follows:

"16-12-141.2.

(a) All facilities in which abortions are performed shall have functional ultrasound or sonogram equipment on site or shall have access to such equipment through other facilities.

(b) An ultrasound or sonogram examination of each unborn child shall be performed

prior to an abortion being performed. Such examination may be performed on site or by referral to another facility for the performance of such examination.

(c) As a part of the informed consent to the abortion procedure, a pregnant female desiring an abortion shall be offered an opportunity to view the ultrasound or sonogram image of her unborn child.

(d) The Department of Human Resources shall develop and distribute a form by which physicians who perform abortions may verify that the pregnant female was offered an opportunity to view the ultrasound or sonogram image of her unborn child prior to the abortion being performed.

(e) It shall be illegal to fail intentionally or to refuse to offer a pregnant female desiring an abortion an opportunity to view the ultrasound or sonogram image of her unborn child prior to performing an abortion. Violation of this Code section shall be punished as for a misdemeanor.

(f) An ultrasound or sonogram examination shall not be required pursuant to this Code section where a pregnancy is the result of rape or incest."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.

On the adoption of the substitute, the yeas were 24, nays 8, and the committee substitute was adopted.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

N Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
N Brown	Y Hooks	Y Staton
E Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	N Jones	N Tarver
Y Carter	Y Kemp	N Tate
Y Chance	N Me V Bremen	Y Thomas,D
Y Chapman	N Miles	N Thomas,R
Y Douglas	Y Moody	N Thompson,C
N Fort	Y Mullis	N Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	E Reed	E Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles

Y Harp
Y Heath
N Henson

Y Seabaugh
N Seay
Y Shafer,D

Y Williams
N Zamarripa

On the passage of the bill, the yeas were 35, nays 17.

SB 429, having received the requisite constitutional majority, was passed by substitute.

SB 415. By Senators Douglas of the 17th, Seabaugh of the 28th, Grant of the 25th, Schaefer of the 50th, Williams of the 19th and others:

A BILL to be entitled an Act to amend Code Section 20-3-485 of the Official Code of Georgia Annotated, relating to definitions relative to the Georgia HERO (Helping Educate Reservists and their Offspring) Scholarship, so as to provide that surviving spouses shall be eligible students; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Senate Higher Education Committee offered the following substitute to SB 415:

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 20-3-485 of the Official Code of Georgia Annotated, relating to definitions relative to the Georgia HERO (Helping Educate Reservists and their Offspring) Scholarship, so as to provide that surviving spouses shall be eligible students; to provide that a person evacuated from a combat zone due to severe injuries shall be deemed to have completed a qualifying term of service; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 20-3-485 of the Official Code of Georgia Annotated, relating to definitions relative to the Georgia HERO (Helping Educate Reservists and their Offspring) Scholarship, is amended by striking paragraphs (2) and (5) and inserting in their places, respectively, the following:

"(2) 'Eligible student' means a person who:

- (A)(i) Is enrolled as a full-time or part-time student in an approved school;
- (ii) Meets residency requirements to be classified as a legal resident of Georgia as established pursuant to regulations of the authority and who remains a citizen of the state while receiving funds under this subpart; and
- (iii) Is a member of the Georgia National Guard as such term is defined in Code Section 38-2-3 or a member of a reserve component of the armed forces of the

United States, which member has completed at least one qualifying term of service; ~~or~~

(B) Is a child:

(i) Whose parent was a member of the Georgia National Guard as such term is defined in Code Section 38-2-3 or a member of a reserve component of the armed forces of the United States, including a deceased member, which member completed at least one qualifying term of service;

(ii) Who was born prior to such qualifying term of service or within nine months of the beginning of such qualifying term of service; and

(iii) Is 25 years of age or younger who is enrolled as a full-time or part-time student in an approved school; or

(C) Is a surviving spouse of a deceased member of the Georgia National Guard as such term is defined in Code Section 38-2-3 or of a deceased member of a reserve component of the armed forces of the United States, which member completed at least one qualifying term of service."

"(5) 'Qualifying term of service' means deployment overseas for active service on or after the effective date of this subpart to a location or locations outside of the United States and its territories designated by the United States Department of Defense as a combat zone for a consecutive period of at least 181 days or, in the case of an individual who is killed or receives a 100 percent disability as a result of injuries received in such combat zone, any period of time on active service in such combat zone; provided, however, that any person who fails to serve the full 181 consecutive days because he or she was evacuated from the combat zone due to severe injuries shall be deemed to have completed a qualifying term of service."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.

On the adoption of the substitute, the yeas were 39, nays 0, and the committee substitute was adopted.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Starr
Y Brown	Y Hooks	Y Staton
E Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate

Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Grant	E Reed	E Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 49, nays 0.

SB 415, having received the requisite constitutional majority, was passed by substitute.

The following communications were received by the Secretary:

Senator Johnny Grant	Committees:
District 25	State Institutions and Property
321-A Coverdell Legislative Office Building	Appropriations
Atlanta, GA 30334	Health and Human Services
	State and Local Governmental Operations

The State Senate
Atlanta, Georgia 30334

Please add a yes vote for me on SB 415.

Thank you,

/s/ Johnny Grant

Senator Jack Hill	Committees:
District 4	Appropriations
234 State Capitol	Education and Youth
Atlanta, GA 30334	Ethics
	Natural Resources and the Environment
	Regulated Industries and Utilities
	Rules

The State Senate
Atlanta, Georgia 30334

Mr. Secretary,

I was absent for part of the day today March 2 and would like to be recorded as voting "Aye" on the following bills on the Calendar today.

SB 520, SB 532, HB 1032 as amended, SB 396, SB 77, SB 123 and SB 429.

Thank you,

/s/ Jack Hill
4th District

Senator Williams of the 19th moved that the Senate stand adjourned pursuant to SR 1061 until 10:00 a.m. Monday, March 6, 2006; the motion prevailed, and at 3:23 p.m. the President announced the Senate adjourned.